in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

The amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to the affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 22d day of December 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-22403 Filed 12-28-72;8:50 am]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Relief of Restrictions

On November 1, 1972, there was published in the FEDERAL REGISTER (37 F.R. 23275), a notice of proposed rule making with respect to proposed relief of restrictions on the interstate movement of birds under the regulations contained in Part 82, Title 9, Code of Federal Regulations. After due consideration of all relevant material, including that submitted in connection with such notice, and pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f) said Part 82 is hereby amended in the following respects:

In § 82.4, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read:

§ 82.4 Restrictions on interstate movement from quarantined areas.

(c) A lot consisting of no more than two psittacine or mynah birds or birds of any other species, which are not known to be affected with or exposed to any communicable disease of poultry, which are caged and are personal pets may be moved interstate by the owner thereof from any quarantined area, if (1) prior to such movement, the owner of such birds signs and furnishes to a Federal inspector in the State of origin of the movement[2] a notarized declaration under oath or affirmation stating that the birds have been in his possession for a minimum of 90 days preceding the interstate movement, that such birds have not shown any signs of illness during that period, and that such birds have not been in contact with poultry or other birds (including association with any other birds at exhibitions or in aviaries) in the quarantined area during that period; (2) prior to such movement, the owner signs an agreement[3] on a form obtainable from a Federal inspector in the State of origin of the movement[2] stating that the birds will be maintained in his personal possession separate and apart from all poultry or other birds, in a place approved by the Deputy Administrator, at destination, for a minimum of 30 days following such interstate movement and until released by a Federal or State inspector of the State of destination;[3] that the birds will be made available for health inspection by a Federal or State inspector, or both, upon request until so released, and that Federal or State officials of the State of destination[3] will be immediately notified if any signs of disease are noted in any of the birds or any of the birds die during that period; and (3) there is compliance with the terms of such agreement.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707, 21529, 21530, 37 F.R. 6327, 6505)

Effective date. The amendments shall become effective upon publication in the FEDERAL REGISTER (12-29-72).

The amendments permit the interstate movement of not more than two personal pet birds from quarantined areas under conditions specified to prevent the spread of poultry disease, including the requirement of no contact with poultry or other birds for 90 days preceding movement interstate and the requirement of isolation for 30 days following such movement. The amendments set forth above are the same as those proposed in the notice of proposed rule making.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of December, 1972.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.72-22404 Filed 12-28-72;8:49 am]

[2] Information as to the location of such inspectors can be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

[3] Owners will be provided a copy of the agreement containing the name and address of the appropriate Federal and State officials of the State of destination. Animal Health officials in States of destination of pet birds to be moved from a quarantined area will be immediately notified by the Federal official in the originating State when such movement into the particular State is made under a declaration furnished to such Federal official.

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 2—RULES OF PRACTICE

Authority of Atomic Safety and Licensing Board to Rule on Certain Petitions

Section 191 of the Atomic Energy Act of 1954, as amended (42 U.S.C. section 2011 et seq.) provides for the establishment of atomic safety and licensing boards to conduct hearings and make initial decisions with respect to the granting, suspending, revoking, or amending of licenses or authorizations under the Atomic Energy Act and other law. This includes proceedings to consider applications for construction permits or operating licenses for production or utilization facilities.

Under the existing rules of practice (10 CFR Part 2), a proceeding for a construction permit for a facility is initiated by the issuance of a notice of hearing signed by the Secretary of the Commission, after the application has been docketed. Any petitions for intervention or limited appearance filed with the Commission are ruled on by the atomic safety and licensing board designated to preside over the hearing, generally at a special prehearing conference held within sixty (60) days after the notice of hearing has been published. In contrast, a proceeding for an operating license for a facility starts with a notice of consideration of issuance of facility operating license and opportunity for hearing. In such proceedings, any petitions for intervention and hearing are ruled on by the Commission. Where warranted, the Commission orders a hearing and issues a notice of hearing.

The Commission has amended its rules of practice to permit atomic safety and licensing boards to assume the function of ruling on petitions for intervention and hearing in operating license proceedings. This function may be exercised either by a board designated for a particular operating license proceeding or by a board designated to rule on such petitions. If the board orders a hearing, it will issue an appropriate notice stating the nature of the hearing, the issues to be considered, and any other matter which the board considers to be appropriate.

Appeals from licensing board rulings on petitions for intervention and/or hearing in construction permit or operating license proceedings are permitted in specified circumstances. Any board order wholly denying a petition for intervention and/or hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part. Any board order granting a petition for intervention and/or hearing is appealable by a party other than the petitioner on the question whether the petition and/or request for a hearing should have been wholly denied. Any appeal must be made within 5 days of the appealable order.

Since the amendments which follow relate solely to matters of internal management, and are procedural rather than substantive, general notice of proposed rule making and public procedure thereon are not required by section 553 of title 5 of the United States Code.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following revisions to Title 10, Chapter 1, Code of Federal Regulations, Part 2, are published as a document subject to codification, to be effective upon publication in the FEDERAL REGISTER (12-29-72).

1. The second sentence of § 2.105(e) is amended to read as follows:

§ 2.105 Notice of proposed action.

* * * * *

(e) * * * If a request for a hearing and/or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission or an atomic safety and licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition and the Secretary or the designated atomic safety and licensing board will issue a notice of hearing or an appropriate order.

* * * * *

2. Section 2.700 is amended to read as follows:

§ 2.700 Scope of subpart.

The general rules in this subpart govern procedure in all adjudications initiated by the issuance of an order to show cause, an order pursuant to § 2.205 (e), a notice of hearing, or a notice of proposed action issued pursuant to § 2.105.

3. The first sentence of § 2.702 is amended to read as follows:

§ 2.702 Docket.

The Secretary will maintain a docket for each proceeding subject to this part, commencing with the issuance of the initial notice of hearing, notice of consideration of issuance of facility operating license or other proposed action specified in § 2.105, or order to show cause.

4. In § 2.714, the introductory language in paragraphs (a) and (d), and the language of paragraph (e) are amended to read as follows:

§ 2.714 Intervention.

(a) Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition under oath or affirmation for leave to intervene. In a proceeding noticed pursuant to § 2.105, any person whose interest may be affected may also request a hearing. Any petition and/or request shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which he wishes to intervene and/or on which he bases his request for a hearing, and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. The petition and/or request shall be filed not later than the time specified in the notice of hearing, or as provided by the Commission, the presiding officer, or the atomic safety and licensing board designated to rule on the petition and/or request, except as provided in § 2.102 (d)(3). Nontimely filings will not be entertained absent a determination by the Commission, the presiding officer or the atomic safety and licensing board designated to rule on the petition and/or request that the petitioner has made a substantial showing of good cause for failure to file on time, and with particular reference to the following factors in addition to those set out in paragraph (d) of this section:

* * * * *

(d) The Commission, the presiding officer or the atomic safety and licensing board designated to rule on petitions to intervene and/or requests for hearing shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

* * * * *

(e) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, presiding officer or the designated atomic safety and licensing board may direct in the interests of: (1) Restricting irrelevant, duplicative, or repetitive evidence and argument, (2) having common interests represented by a spokesman, and (3) retaining authority to determine priorities and control the compass of the hearing.

* * * * *

5. A new § 2.714a is added to read as follows:

§ 2.714a Appeals from certain rulings on petitions for leave to intervene and/or requests for hearing.

(a) Notwithstanding the provisions of § 2.730(f), an order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing may be appealed, in accordance with the provisions of this section, to the Atomic Safety and Licensing Appeal Board within five (5) days after service of the order. The appeal shall be asserted by the filing of a notice of appeal and accompanying supporting brief. Any other party may file a brief in support of or in opposition to the appeal within five (5) days after service of the appeal. No other appeals from rulings on petitions and/or requests for hearing shall be allowed.

(b) An order wholly denying a petition for leave to intervene and/or request for a hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part.

(c) An order granting a petition for leave to intervene and/or request for a hearing is appealable by a party other than the petitioner on the question whether the petition and/or the request for a hearing should have been wholly denied.

6. The third sentence of § 2.717(a) is amended to read as follows:

§ 2.717 Commencement and termination of jurisdiction of presiding officer.

(a) * * * A proceeding is deemed to commence when a notice of hearing or a notice of proposed action pursuant to § 2.105 is issued.

* * * * *

7. Section 2.721(a) is amended to read as follows:

§ 2.721 Atomic safety and licensing boards.

(a) The Commission or the Chairman of the Atomic Safety and Licensing Board Panel may from time to time establish one or more atomic safety and licensing boards, each comprised of three members, one of whom will be qualified in the conduct of administrative proceedings and two of whom shall have such technical or other qualifications as the Commission or the Chairman of the Atomic Safety and Licensing Board Panel deems appropriate to the issues to be decided, to preside in such proceedings for granting, suspending, revoking, or amending licenses or authorizations as the Commission may designate, and to perform such other adjudicatory functions as the Commission deems appropriate. The members of an atomic safety and licensing board shall be designated from the Atomic Safety and Licensing Board Panel established by the Commission.

(Sec. 161, 68 Stat. 948, 42 U.S.C. 2201)

Dated at Germantown, Md., this 19th day of December, 1972.

For the Atomic Energy Commission.

PAUL C. BENDER,
Secretary of the Commission.

[FR Doc.72-22335 Filed 12-28-72;8:47 am]

Title 21—FOOD AND DRUGS

Chapter II—Bureau of Narcotics and Dangerous Drugs, Department of Justice

PART 301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

Schedule I Substances; Research Applications and Protocols

A notice was published in the FEDERAL REGISTER of November 9, 1972 (37 F.R. 23842) proposing new regulations governing the procedures for submitting and processing applications to conduct research with Schedule I controlled substances. One comment was received, from three professors of microbiology at the University of Montana, who urged the deletion of the words "and indication of an approved funded grant" from the material to be included in the research protocol (§ 301.33(a)(3)(iv)). They argue that much research is funded by other than direct grants and interpret the language as forbidding such research. The Bureau did not intend this interpretation; rather, the proposal language was designed to notify BNDD and the FDA when a grant was involved. To clarify this, the words "if any" have been added at the end of the language cited.

Through oversight, one element was omitted from the framework of the protocol. Section 301.22(b)(3) permits a person registered to conduct research as a Schedule I controlled substance to manufacture or import that substance "if and to the extent that such manufacture is set forth in the research protocol." To provide a proper location for including this information, § 301.33(a)(2) is revised by the addition of a paragraph (vii) which reads: "(vii) If the investigator desires to manufacture or import any controlled substance listed in paragraph (iii), a statement of the quantity to be manufactured or imported and the sources of the chemicals to be used or the substance to be imported."

Under the authority vested in the Attorney General by sections 301, 302(f) and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821, 822(f), and 871(b)), and redelegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 301 of Title 21 of the Code of Federal Regulations be amended as follows:

1. By amending § 301.32(a)(6) to read as follows:

§ 301.32 Application forms; contents signature.

(a) * * *

(6) To conduct research with controlled substances listed in schedule I, he shall apply on BNDD Form 225, with three copies of a research protocol as described in § 301.33(a) attached to the form, or, in the case of a clinical investigation, with three copies of a certificate of submission of an IND as described in § 301.33(b) attached to the form (the researcher also submitting to the Food and Drug Administration three copies of a Notice of Claimed Investigational Exemption for a New Drug as required in § 301.33(b));

* * * * *

2. By adopting a new § 301.33 to read as follows:

§ 301.33 Research protocols.

(a) A protocol to conduct research with controlled substances listed in Schedule I shall be in the following form and contain the following information where applicable:

(1) Investigator:

(i) Name, address, and BNDD registration number; if any.

(ii) Institutional affiliation.

(iii) Qualifications, including a curriculum vitae and an appropriate bibliography (list of publications).

(2) Research project:

(i) Title of project.

(ii) Statement of the purpose.

(iii) Name of the controlled substances or substances involved and the amount of each needed.

(iv) Description of the research to be conducted, including the number and species of research subjects, the dosage to be administered, the route and method of administration, and the duration of the project.

(v) Location where the research will be conducted.

(vi) Statement of the security provisions for storing the controlled substances (in accordance with § 301.75) and for dispensing the controlled substances in order to prevent diversion.

(vii) If the investigator desires to manufacture or import any controlled substance listed in subdivision (iii) of this subparagraph, a statement of the quantity to be manufactured or imported and the sources of the chemicals to be used or the substance to be imported.

(3) Authority:

(i) Institutional approval.

(ii) Approval of a Human Research Committee for human studies.

(iii) Indication of an approved active Notice of Claimed Investigational Exemption for a New Drug (number).

(iv) Indication of an approved funded grant (number), if any.

(b) In the case of a clinical investigation with controlled substances listed in Schedule I, the applicant shall submit three copies of a Notice of Claimed Investigational Exemption for a New Drug (IND) together with a statement of the security provisions (as prescribed in paragraph (a)(2)(v) of this section for a research protocol) to, and have such submission approved by, the Food and Drug Administration as required in 21 U.S.C. 355(i) and § 130.3 of this title. Submission of this Notice and statement to the Food and Drug Administration shall be in lieu of a research protocol to the Bureau as required in paragraph (a) of this section. The applicant, when applying for registration with the Bureau, shall indicate that such notice has been submitted to the Food and Drug Administration by submitting to the Bureau with his BND Form 225 three copies of the following certificate:

I hereby certify that on ________ (Date), pursuant to 21 U.S.C. 355(i) and 21 CFR 130.3, I, ________ (Name and Address of IND Sponsor) submitted a Notice of Claimed Investigational Exemption for a New Drug (IND) to the Food and Drug Administration for: ________ (Name of Investigational Drug)

________ (Date)

________ Signature of Applicant

(c) In the event that the registrant desires to increase the quantity of a controlled substance used for an approved research project, he shall submit a request to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Post Office Box 28083, Central Station, Washington, D.C. 20005, by registered mail, return receipt requested. The request shall contain the following information: BNDD registration number; name of the controlled substance or substances and the quantity of each authorized in the approved protocol; and the additional quantity of each desired. Upon return of the receipt, the registrant shall be authorized to purchase the additional quantity of the controlled substance or substances specified in the request. The Bureau shall review the letter and forward it to the Food and Drug Administration together with the Bureau comments. The Food and Drug Administration shall approve or deny the request as an amendment to the protocol and so notify the registrant. Approval of the letter by the Food and Drug Administration shall authorize the registrant to use the additional quantity of the controlled substance in the research project.

(d) In the event the registrant desires to conduct research beyond the variations provided in the registrant's approved protocol (excluding any increase in the quantity of the controlled substance requested for his research project as outlined in paragraph (c) of this section), he shall submit three copies of a supplemental protocol in accordance with paragraph (a) of this section describing the new research and omitting information in the supplemental protocol which has been stated in the original protocol. Supplemental protocols shall be processed and approved or denied in the same manner as original research protocols.

3. By deleting § 301.42 in its entirety and replacing it with the following:

§ 301.42 Action on applications for research in Schedule I substances.

(a) In the case of an application for registration to conduct research with controlled substances listed in Schedule I, the Director shall process the application and protocol and forward a copy of each to the Secretary within 7 days after receipt. The Secretary shall determine the qualifications and competency of the applicant, as well as the merits of the protocol (and shall notify the

Director of his determination) within 21 days after receipt of the application and complete protocol, except that in the case of a clinical investigation, the Secretary shall have 30 days to make such determination and notify the Director. The Secretary, in determining the merits of the protocol, shall consult with the Director as to effective procedures to safeguard adequately against diversion of such controlled substances from legitimate medical or scientific use.

(b) An applicant whose protocol is defective shall be notified by the Secretary within 21 days after receipt of such protocol from the Director (or in the case of a clinical investigation within 30 days), and he shall be requested to correct the existing defects before consideration shall be given to his submission.

(c) If the Secretary determines the applicant qualified and competent and the research protocol meritorious, he shall notify the Director in writing of such determination. The Director shall issue a certificate of registration within 10 days after receipt of this notice, unless he determines that the certificate of registration should be denied on a ground specified in section 304(a) of the Act (21 U.S.C. 824(a)). In the case of a supplemental protocol, a replacement certificate of registration shall be issued by the Director.

(d) If the Secretary determines that the protocol is not meritorious and/or the applicant is not qualified or competent, he shall notify the Director in writing setting forth the reasons for such determination. If the Director determines that grounds exist for the denial of the application, he shall within 10 days issue an order to show cause pursuant to § 301.48 and, if requested by the applicant, hold a hearing on the application pursuant to § 301.51. If the grounds for denial of the application include a determination by the Secretary, the Secretary or his duly authorized agent shall furnish testimony and documents pertaining to his determination at such hearing.

(e) Supplemental protocols will be processed in the same manner as original research protocols. If the processing of an application or research protocol is delayed beyond the time limits imposed by this section, the applicant shall be so notified in writing.

Effective date. This order is effective upon the date of its publication in the FEDERAL REGISTER (12-29-72).

Dated: December 22, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-22387 Filed 12-28-72;8:51 am]

PART 304—RECORDS AND REPORTS OF REGISTRANTS

Information Regarding Controlled Substance Transactions

The Bureau of Narcotics and Dangerous Drugs has responsibility for monitoring the production and distribution of controlled substances in the United States, and for establishing quotas on the quantities of controlled substances listed in Schedules I and II of the Comprehensive Drug Abuse Prevention and Control Act of 1970. In order to do this, the Bureau must collect considerable information on the flow of controlled substances among registrants.

At the present time, the Bureau relies on summarized reports filed by manufacturers and distributors of narcotic drugs, a system established in the former Federal Bureau of Narcotics. No data is collected regularly regarding nonnarcotic controlled substances. In March 1971, the Bureau proposed extending the narcotic reporting system to nonnarcotic drugs (36 F.R. 4928, March 13, 1971). Various associations of manufacturers and distributors objected to this proposal and the Bureau did not make the change. In reaching this decision, however, it was said (36 F.R. 7776, April 24, 1971):

> The Director wishes to point out that these requirements are intended to continue existing reporting requirements until a new system of reporting that more fully accords with the Act can be designed and implemented. It is anticipated that this will require 9 to 12 months and at that time §§ 304.31-35 will be replaced.

Soon thereafter the Bureau began an ambitious project that would provide BNDD with detailed information regarding every transaction in a controlled substance. This required extensive study of the feasibility of collecting and processing this data, as well as the various uses to which it could be put. Thus, the replacement of the narcotics reporting system was delayed beyond the 9 to 12 months originally anticipated.

In the summer of 1972, the Bureau had sufficiently outlined its new program to begin discussions with affected registrants. The Pharmaceutical Manufacturers' Association and the National Association of Pharmaceutical Manufacturers jointly sponsored a series of seminars with selected members, representatives of various pharmaceutical wholesaler groups, and BNDD to discuss the project. On September 18, 1972, the Bureau directly mailed to each registrant who might be affected by the new system a detailed explanation of the program, how it would work, and how it might affect them. Further meetings were held, and on November 13, 1972, a second mailing was made by BNDD. In that mailing was included a draft of the proposed regulations which would implement the new system. Comments were solicited at that time.

The Director has determined, in light of the discussions with affected registrants, that the new system should be implemented, but on a gradual basis during 1973. Each affected registrant will be contacted during the next 12 months and advised as to the date on which he shall commence reporting under the new system. Until a registrant is incorporated into the new system, he shall continue to file information on narcotic substances which he now files.

The new system will require reports from manufacturers regarding production, distributions, and annual inventories of controlled substances listed in Schedules I and II and narcotic controlled substances in Schedules III and V, and reports from repackers, relabelers, importers, exporters, and distributors regarding receipts, distributions, and annual inventories of controlled substances in Schedules I and II and narcotic controlled substances in Schedule III. The Director finds that reports on each sale, delivery, or other disposal made by a manufacturer of any controlled substance may be required under section 307(d) of the Act (21 U.S.C. 826(d)); at this time, however, the Director finds that the Bureau cannot process data on such transactions on nonnarcotic controlled substances in Schedules III, IV, and V. The Director finds that reports on each sale, delivery, or other disposal of any narcotic controlled substance made by a distributor may be required under section 307(d) of the Act (21 U.S.C. 827(d)) but that such transactions involving Schedule V narcotics are not necessary at this time. The Director further finds that reports by manufacturers regarding production and annual inventories of controlled substances in Schedules I and II (and narcotic substances in Schedules III and V) and reports by distributors regarding sales, deliveries, and other disposals of nonnarcotic controlled substances listed in Schedules I and II and regarding receipts and annual inventories of all controlled substances in Schedules I and II and narcotics substances in Schedule III, are necessary and appropriate for the efficient execution of his functions under the Act in establishing quotas on the future production of these substances, in filing annual statistical returns regarding narcotic substances required under Article 20(1) of the Single Convention on Narcotic Drugs 1961, and is filing annual statistical reports required under Article 16(4) of the Convention on Psychotropic Substances, 1971 (which the United States has agreed to submit voluntarily in advance of ratification), and may therefore be required under section 501(b) of the Act (21 U.S.C. 871(b)). The Director also finds that reports from importers and exporters regarding imports, exports, receipts, distributions, and annual inventories of controlled substances in Schedules I and II and narcotic controlled substances in Schedule III are similarly necessary and appropriate and may be required under sections 1008(d), 1015, and 501(b) of the Act (21 U.S.C. 958(d), 965, and 871(b)).

Therefore, under the authority vested in the Attorney General pursuant to sections 307(d), 501(b), 1008(d), and 1015 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 827(d), 871(b), 958(d), and 965), and delegated to the Director of the Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Part 304 of Title 21 of the Code of Federal Regulations be amended as follows:

1. By adopting a new § 304.36 to read as follows:

§ 304.36 Transitional regulations.

(a) It is the intent of the Bureau to shift use of BND Forms 233, 234, and 235 under §§ 304.31–304.32 to BND Form 333 under §§ 304.37–304.41 in stages during the calendar year 1973, and to have total utilization of the new reporting forms by January 1, 1974. Individual registrants will be contacted by the Bureau as to the date each registrant will shift in the forms used and the data reported.

(b) On the date on which the registrant transfers from BND Form 234 or 235 to BND Form 333, he shall take and file on BND Form 333 a complete inventory of all controlled substances on which he is required to report.

(c) References to BND Form 234 in §§ 304.33 and 304.34 shall be deemed to refer equally to BND Form 333.

2. By adopting a new § 304.37 to read as follows:

§ 304.37 Reports generally.

(a) All reports required by §§ 304.38–304.41 shall be filed with the Distribution Audit Branch, Bureau of Narcotics and Dangerous Drugs; Department of Justice, Washington, D.C. 20537.

(b) Reports required by §§ 304.38–304.41 shall be filed on BND Form 333, or on media which contains the data required by BND Form 333 and which is acceptable to the Distribution Audit Branch.

3. By adopting a new § 304.38 to read as follows:

§ 304.38 Reports from manufacturers of bulk materials or dosage units.

Each person who is registered to manufacture controlled substances and who manufactures such substances in bulk or dosage form shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled substance listed in Schedule I and II and on each narcotic controlled substance listed in Schedules III and V (but not on any material, compound, mixture, or preparations containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture or preparation is listed in Schedule III). Data shall be presented in such a manner as to identify the particular form, strength, and trade name, if any, of the product containing the controlled substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by purchase or transfer, return from a customer, recovery of waste material, manufacture from other materials, or supplied by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by sale or transfer, sampling, use in production, loss through nonrecoverable waste, theft, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each reported controlled substance on hand as of the close of business on December 31 of each year, indicating whether the substance is in storage or in process of manufacturing. These reports shall be filed no later than January 15 of the following year.

4. By adopting a new § 304.39 to read as follows:

§ 304.39 Reports from packagers and labelers.

Each person who is registered to manufacture controlled substances and who only packages, repackages, labels, or relabels such substances shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled substance listed in Schedule I and II and on each narcotic controlled substance listed in Schedule III (but not on any material, compound, mixture, or preparation containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture, or preparation is listed in Schedule III or on any narcotic controlled substance listed in Schedule V). Data shall be presented in such a manner as to identify the particular form, strength, and trade name, if any, of the product containing the controlled substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by purchase or transfer, return from a customer, recovery of waste material, manufacture from other materials, or supply by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by sale or transfer, sampling loss through nonrecoverable waste, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each reported controlled substance on hand each year as of the close of business on the inventory date selected by the registrant pursuant to § 304.13. These reports shall be filed not later than the 15th day of the month succeeding the inventory date.

(d) *Exceptions.* A registered institutional practitioner who repackages or relabels exclusively for distribution to and dispensing by agents, employees, or affiliated institutional practitioners of the registrant may be exempted from filing reports under this section by applying to the Distribution Audit Branch of the Bureau.

5. By adopting a new § 304.40 to read as follows:

§ 304.40 Reports from importers and exporters.

Each person who is registered to import or export controlled substances shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled substance listed in Schedule I and II and on each narcotic controlled substance listed in Schedule III (but not on any material, compound, mixture or preparation containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture or preparation is listed in Schedule III or on any narcotic controlled substance listed in Schedule V). Data shall be presented in such a manner as to identify the particular form, strength, and substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by importation, by purchase or transfer, return from a customer, or supply by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by exportation, by sale or transfer, sampling, theft, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each controlled substance covered on hand each year as of the close of business on the inventory date selected by the registrant pursuant to § 304.13. These reports shall be filed no later than the 15th day of the month succeeding the inventory date.

6. By adopting a new § 304.41 to read as follows:

§ 304.41 Reports from distributors.

Each person who is registered to distribute controlled substances shall report as follows:

(a) *Substances covered.* Reports shall include data on each controlled substance listed in Schedule I and II and on each narcotic controlled substance listed in Schedule III (but not on any material, compound, mixture or preparation containing a quantity of a substance having a stimulant effect on the central nervous system, which material, compound, mixture or preparation is listed in Schedule III or on any narcotic controlled substance listed in Schedule V). Data shall be presented in such a manner as to identify the particular form, strength, and trade name, if any, of the product containing the controlled substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) *Transactions reported.* Reports shall provide data on each acquisition to inventory (identifying whether it is, e.g., by purchase or transfer, return from a customer, or supply by the Federal Government) and each reduction from inventory (identifying whether it is, e.g., by sale or transfer, sampling, theft, destruction, or seizure by Government agencies). These reports shall be filed every month not later than the 15th day of the month succeeding the month for which it is submitted; except that a registrant may be given permission to file more frequently or less frequently (but not less than quarterly), depending on the number of transactions being reported each time by that registrant.

(c) *Inventories reported.* Reports shall provide data on the stocks of each controlled substance covered on hand each year as of the close of business on the inventory date selected by the registrant pursuant to § 304.13. These reports shall be filed no later than the 15th day of the month succeeding the inventory date.

(d) *Exceptions.* A registered institutional practitioner which distributes exclusively to (for dispensing by) agents, employees, or affiliated institutional practitioners of the registrant may be exempted from filing reports under this section by applying to the Distribution Audit Branch of the Bureau.

Effective date. Because every registrant affected by the changes ordered above has previously been given a copy of the changes and permitted to comment, because the implementation of the system is scheduled to commence January 1, 1973, and because implementation will not be completed until December 31, 1973 (thereby allowing considerable time for revisions, if necessary), this order shall be effective on December 31, 1972. Therefore, the Director finds that waiver of the usual period for comments and objections is consistent with the public health and safety, with the interests of affected persons, and with the need to provide a codified set of regulations to all registrants.

If any interested person desires to comment on or object to any of the changes made in this order, the Director will consider such comments and objections for purposes of amending or revoking any of these changes. All interested persons are invited to submit their comments and objections in writing with five copies to the Hearing Clerk, Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 I Street NW., Washington, DC 20537.

Dated: December 22, 1972.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[FR Doc.72-22388 Filed 12-28-72;8:51 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7238]

ACCELERATION OF COLLECTION OF ESTATE AND GIFT TAXES

On August 25, 1972, notice of proposed rule making to conform the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), the Gift Tax Regulations (26 CFR Part 25), and the Regulations on Procedure and Administration (26 CFR Part 301), to the amendments of the Internal Revenue Code of 1954 made by sections 101 and 102 of the Excise, Estate, and Gift Tax Adjustment Act of 1970 (84 Stat. 1836), was published in the FEDERAL REGISTER (37 F.R. 17179). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below.

1. Paragraph (a) of § 20.2204-2, as set forth in paragraph 16 of the notice of proposed rule making, is changed to read as set forth below.

2. Paragraphs (a) and (b) of § 20.6161-1, as set forth in paragraph 30 of the appendix to the notice of proposed rule making, are changed to read as set forth below.

3. Subparagraph (1) and example (1) of subparagraph (3) of § 25.6019-1 (b), as set forth in paragraph 77 of the appendix to the notice of proposed rule making, are changed to read as set forth below.

4. Section 301.6601-1 is amended by revising paragraph (b)(2) to read as set forth below.

(Secs. 2204(b), 2513, 6001, 6011, 6036, 6071, 6091(b), 6166(j), 6905(a), and 7805 of the Internal Revenue Code of 1954 (84 Stat. 1836, 26 U.S.C. 2204(b); 68A Stat. 406, 26 U.S.C. 2513; 68A Stat. 731, 26 U.S.C 6001; 68A Stat 732, 26 U.S.C. 6011; 68A Stat. 744, 26 U.S.C. 6036; 68A Stat. 749, 26 U.S.C 6071; 84 Stat 1837, 26 U.S.C. 6091(b); 72 Stat. 1684, 26 U.S.C. 6166(j); 84 Stat. 1838, 26 U.S.C. 6905 (a); 68A Stat 917, 26 U.S.C. 7805))

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 21, 1972.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PARAGRAPH 1. Section 1.1015 is amended by revising section 1015(d)(2) and the historical note to read as follows:

§ 1.1015 Statutory provisions; basis of property acquired by gifts and transfers in trust.

SEC. 1015. *Basis of property acquired by gifts and transfers in trust.* * * *

(d) *Increased basis for gift tax paid.* * * *

(2) *Amount of tax paid with respect to gift.* For purposes of paragraph (1), the amount of gift tax paid with respect to any gift is an amount which bears the same ratio to the amount of gift tax paid under chapter 12 with respect to all gifts made by the donor for the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which such gift is made as the amount of such gift bears to the taxable gifts (as defined in section 2503(a) but computed without the deduction allowed by section 2521) made by the donor during such calendar quarter or year. For purposes of the preceding sentence, the amount of any gift shall be the amount included with respect to such gift in determining (for the purposes of section 2503(a)) the total amount of gifts made during the calendar quarter or year, reduced by the amount of any deduction allowed with respect to such gift under section 2522 (relating to charitable deduction) or under section 2523 (relating to marital deduction).

* * * * *

[Sec. 1015 as amended by sec. 43(a), Technical Amendments Act 1958 (Public Law 85-866, 72 Stat. 1640); sec. 102(d)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat.1841)]

PAR. 2. Paragraph (b) of § 1.1015-5 is amended by revising subparagraphs (1)(i), (1)(ii), (2), and (4) to read as follows:

§ 1.1015-5 Increased basis for gift tax paid.

* * * * *

(b) *Amount of gift tax paid with respect to a gift of property.* (1) (i) If only one gift was made during a certain calendar quarter (or calendar year if the gift was made before January 1, 1971), the entire amount of the gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws for that calendar quarter (or calendar year) is the amount of the gift tax paid with respect to the gift.

(ii) If more than one gift was made during a certain calendar quarter (or calendar year if the gifts were made before January 1, 1971), the amount of gift tax paid under chapter 12 or the corresponding provisions of prior revenue laws with respect to any specified gift made during that calendar quarter (or calendar year) is an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar quarter or calendar year) as C (the "amount of the gift," computed as described in this subdivision) bears to D (the total taxable gifts for the calendar quarter or calendar year, computed without deduction for the gift tax specific exemption under section 2521 or the corresponding provisions of prior revenue laws). Stated algebraically, the amount of the gift tax paid with respect to a gift equals:

$$\frac{\text{"Amount of the gift" (C)}}{\text{Total taxable gifts, plus specific exemption allowed (D)}} \times \text{Total gift tax paid (B)}$$

For purposes of the ratio stated in the preceding sentence, the "amount of the gift" referred to as factor "C" is the value of the gift reduced by any portion excluded or deducted under section 2503(b) (annual exclusion), 2522 (charitable deduction), or 2523 (marital deduction) of the Code or the corresponding provisions of prior revenue laws. In making the computations described in this paragraph, the values to be used are those finally determined for purposes of the gift tax.

* * * * *

(2) For purposes of this paragraph, it is immaterial whether the gift tax is paid by the donor or the donee. Where more than one gift of a present interest in property is made to the same donee during a calendar quarter or calendar year, the annual exclusion shall apply to the earliest of such gifts in point of time.

* * * * *

(4) The method described in section 1015(d)(2) and this paragraph for computing the amount of gift tax paid in respect of a gift may be illustrated by the following examples:

Example (1). Prior to 1959 H made no taxable gifts. On July 1, 1959, he made a gift to his wife, W, of land having a value for gift purposes of $60,000 and gave to his son, S, certain securities valued at $60,000. During the year 1959, H also contributed $5,000 in cash to a charitable organization described in section 2522. H filed a timely gift tax return for 1959 with respect to which he paid gift tax in the amount of $6,000, computed as follows:

Value of land given to W		$60,000	
Less: Annual exclusion	$3,000		
Marital deduction	30,000	33,000	
Included amount of gift			$27,000
Value of securities given to S		60,000	
Less: Annual exclusion		3,000	
Included amount of gift			57,000
Gift to charitable organization		5,000	
Less: Annual exclusion	3,000		
Charitable deduction	2,000	5,000	
Included amount of gift			0
Total included gifts			84,000
Less: Specific exemption allowed			30,000
Taxable gifts for 1959			54,000
Gift tax on $54,000			6,000

In determining the gift tax paid with respect to the land given to W, amount C of the ratio set forth in subparagraph (1)(ii) of this paragraph is $60,000, value of property given to W, less $33,000 (the sum of $3,000, the amount excluded under section 2503(b), and $30,000, the amount deducted under section 2523), or $27,000. Amount D of the ratio is $84,000 (the amount of taxable gifts, $54,000, plus the gift tax specific exemption, $30,000). The gift tax paid with respect to the land given to W is $1,928.57, computed as follows:

$$\frac{\$27,000\ (C)}{\$84,000\ (D)} \times \$6,000\ (B)$$

Example (2). The facts are the same as in example (1) except that H made his gifts to W and S on July 1, 1971, and that prior to 1971, H made no taxable gifts. Furthermore, H made his charitable contribution on August 12, 1971. These were the only gifts made by H during 1971. H filed his gift tax return for the third quarter of 1971 on November 15, 1971, as required by section 6075(b). With respect to the above gifts, H paid a gift tax in the amount of $6,000, on total taxable gifts of $54,000 for the third quarter of 1971. The gift tax paid with respect to the land given to W is $1,928.57. The computations for these figures are identical to those used in example (1).

Example (3). On January 15, 1956, A made a gift to his nephew, N, of land valued at $86,000, and on June 30, 1956, gave N securities valued at $40,000. On July 1, 1956, A gave to his sister, S, $46,000 in cash. A and his wife, B, were married during the entire calendar year 1956. The amount of A's taxable gifts for prior years was zero although in arriving at that amount A had used in full the specific exemption authorized by section 2521. B did not make any gifts before 1956. A and B elected under section 2513 to have all gifts made by either during 1956 treated as made one-half by A and one-half by B. Pursuant to that election, A and B each filed a gift tax return for 1956. A paid gift tax of $11,325 and B paid gift tax of $5,250, computed as follows:

	A	B
Value of land given to N	$43,000	$43,000
Less: exclusion	3,000	3,000
Included amount of gift	40,000	40,000
Value of securities given to N	20,000	20,000
Less: exclusion	None	None
Included amount of gift	20,000	20,000
Cash gift to S	23,000	23,000
Less: exclusion	3,000	3,000
Included amount of gift	20,000	20,000
Total included gifts	80,000	80,000
Less: specific exemption	None	30,000
Taxable gifts for 1956	80,000	50,000
Gift tax for 1956	11,325	5,250

The amount of the gift tax paid by A with respect to the land given to N is computed as follows:

$$\frac{\$40,000(C)}{\$80,000(D)} \times \$11,325(B) = \$5,662.50$$

The amount of the gift tax paid by B with respect to the land given to N is computed as follows:

$$\frac{\$40,000(C)}{\$80,000(D)} \times \$5,250(B) = \$2,625$$

The amount of the gift tax paid with respect to the land is $5,662.50 plus $2,625, or $8,287.50. Computed in a similar manner, the amount of gift tax paid by A with respect to the securities given to N is $2,831.25, and the amount of gift tax paid by B with respect thereto is $1,312.50, or a total of $4,143.75.

Example (4). The facts are the same as in example (3) except that A gave the land to N on January 15, 1972, the securities to N on February 3, 1972, and the cash to S on March 7, 1972. As in example (3), the amount of A's taxable gifts for taxable years prior to 1972 was zero, although in arriving at that amount A had used in full the specific exemption authorized by section 2521. B did not make any gifts before 1972. Pursuant to the election under section 2513, A and B treated all gifts made by either during 1972 as made one-half by A and one-half by B. A and B each filed a gift tax return for the first quarter of 1972 on May 15, 1972, as required by section 6075(b). A paid gift tax of $11,325 on taxable gifts of $80,000 and B paid gift tax of $5,250 on taxable gifts of $50,000. The amount of the gift tax paid by A and B with respect to the land given to N is $5,662.50 and $2,625, respectively. The computations for these figures are identical to those used in example (3).

* * * * *

PAR. 3. Section 1.1223 is amended by redesignating subsection (10) of section 1223 as (12), by inserting new subsections (10) and (11) immediately after subsection (9), and by adding a historical note. These redesignated and added provisions read as follows:

§ 1.1223 Statutory provisions; holding period of property.

SEC. 1223. *Holding period of property.* * * *

(10) In determining the period for which the taxpayer has held trust certificates of a trust to which subsection (d) of section 1246 applies, or the period for which the taxpayer has held stock in a corporation to which subsection (d) of section 1246 applies, there shall be included the period for which the trust or corporation (as the case may be) held the stock of foreign investment companies.

(11) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of section 1014(b)), if—

(A) The basis of such property in the hands of such person is determined under section 1014, and

(B) Such property is sold or otherwise disposed of by such person within 6 months after the decedent's death,

then such person shall be considered to have held such property for more than 6 months.

(12) *Cross reference.* * * *

[Sec. 1223 as amended by sec. 14(b), Rev. Act 1962 (76 Stat. 1041); sec. 101(g), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 4. Section 1.1223–1 is amended by redesignating paragraph (j) as (k) and inserting a new paragraph (j) immediately after paragraph (i). These redesignated and added provisions read as follows:

§ 1.1223–1 Determination of period for which capital assets are held.

* * * * *

(j) In the case of a person acquiring property, or to whom property passed, from a decedent (within the meaning of section 1014(b)) dying after December 31, 1970, such person shall be considered to have held the property for more than 6 months if the property—

(1) Has a basis in the hands of such person which is determined in whole or in part under section 1014, and

(2) Is sold or otherwise disposed of by such person within 6 months after the decedent's death.

The provisions of this paragraph apply to sales of such property included in the decedent's gross estate for the purposes of the estate tax by the executor or administrator of the estate and to sales of such property by other persons who have acquired property from the decedent. The provisions of this paragraph may also be applicable to cases involving joint tenancies, community property, and properties transferred in contemplation of death. Thus, if a surviving joint tenant, who acquired property by right of survivorship, sells or otherwise disposes of such property within 6 months after the date of the decedent's death, and the basis of the property in his hands is determined in whole or in part under section 1014, the property shall be considered to have been held by the surviving joint tenant for more than 6 months. Similarly, a surviving spouse's share of community property shall be considered to have been held by her for more than 6 months if it is sold or otherwise disposed of within 6 months after the date of the decedent's death, regardless of when the property was actually acquired by the marital community. For the purposes of this paragraph, it is immaterial that the sale or other disposition produces gain or loss. If property is considered to have been held for more than 6 months by reason of this paragraph, it also is considered to have been held for that period for purposes of section 1231 (if that section is otherwise applicable).

(k) Any reference in section 1223 or this section to another provision of the Internal Revenue Code of 1954 is, where applicable, to be deemed a reference to the corresponding provision of the Internal Revenue Code of 1939, or prior internal revenue laws. The provisions of prior internal revenue laws here intended are the sections referred to in the sections of the Internal Revenue Code of 1939 which correspond to the sections of the Internal Revenue Code of 1954 referred to in section 1223. Thus, the sections corresponding to section 1081(c) are section 371(c) of the Revenue Act of 1938 (52 Stat. 553) and section 371(c) of the Internal Revenue Code of 1939. The sections corresponding to section 1091 are section 118 of each of the following: The Revenue Acts of 1928 (45 Stat. 826), 1932 (47 Stat. 208), 1934 (48 Stat. 715), 1936 (49 Stat. 1692), 1938 (52 Stat. 503), and the Internal Revenue Code of 1939.

PAR. 5. Section 1.6161 is amended by revising section 6161(a)(1), by revising section 6161(b), and by adding a historical note. These revised and added provisions read as follows:

§ 1.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (* * *) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1, 12, or 42, for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months;

* * * * *

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

* * * * *

[Sec. 6161 as amended by sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PAR. 6. Section 20.0–1 is amended by revising paragraph (a)(1) to read as follows:

§ 20.0–1 Introduction.

(a) *In general.* (1) The regulations in this part (Part 20, Subchapter B, Chapter I, Title 26, Code of Federal Regulations) are designated "Estate Tax Regulations." These regulations pertain to (i) the Federal estate tax imposed by chapter 11 of subtitle B of the Internal Revenue Code on the transfer of estates of decedents dying after August 16, 1954, and (ii) certain related administrative provisions of subtitle F of the Code. It should be noted that the application of many of the provisions of these regulations may be affected by the provisions of an applicable death tax convention with a foreign country. Unless otherwise indicated, references in the regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, and references to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954, as amended. Unless otherwise provided, the Estate Tax Regulations are applicable to the estates of decedents dying after August 16, 1954, and supersede the regulations contained in Part 81, Subchapter B, Chapter 1, Title 26, Code of Federal Regulations (1939) (Regulations 105, Estate Tax), as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 F.R. 5167, Aug. 17, 1954). The regulations in this part do not reflect the amendments made by the Foreign Investors Tax Act of 1966 (80 Stat. 1539).

* * * * *

PAR. 7. Section 20.2012 is amended by revising section 2012(b)(1), by revising section 2012(d), and by adding a historical note. These revised and added provisions read as follows:

§ 20.2012 Statutory provisions; credit for gift tax.

SEC. 2012. *Credit for gift tax.* * * *

(b) In applying, with respect to any gift, the ratio stated in subsection (a), the value at the time of the gift or at the time of the death referred to in such ratio, shall be reduced—

(1) By such amount as will properly reflect the amount of such gift which was excluded in determining (for purposes of section 2503(a)), or of corresponding provisions of prior laws, the total amount of gifts made during the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which the gift was made;

* * * * *

(d) (1) For purposes of subsection (a), the amount of tax paid on a gift under chapter 12, or under corresponding provisions of prior laws, with respect to any gift shall be an amount which bears the same ratio to the total tax paid for the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which the gift was made as the amount of such gift bears to the total amount of taxable gifts (computed without deduction of the specific exemption) for such quarter or year.

(2) For purposes of paragraph (1), the "amount of such gift" shall be the amount included with respect to such gift in determining (for the purposes of section 2503(a), or of corresponding provisions of prior laws) the total amount of gifts made during such quarter or year, reduced by the amount of any deduction allowed with respect to such gift under section 2522, or under corresponding provisions of prior laws (relating to charitable deduction), or under section 2523 (relating to marital deduction).

[Sec. 2012 as amended by sec. 102(d) (2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 8. Section 20.2012-1 is amended by revising so much of paragraph (c) as precedes the example to read as follows:

§ 20.2012-1 **Credit for gift tax.**

* * * * *

(c) *"First limitation".* The amount of the gift tax paid on the gift is the "first limitation". Thus, if only one gift was made during a certain calendar quarter, or calendar year if the gift was made before January 1, 1971, and the gift is wholly included in the decedent's gross estate for the purpose of the estate tax, the credit with respect to the gift is limited to the amount of the gift tax paid for that calendar quarter or calendar year. On the other hand, if more than one gift was made during a certain calendar quarter or calendar year, the credit with respect to any such gift which is included in the decedent's gross estate is limited under section 2012(d) to an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar quarter or calendar year) as C (the "amount of the gift," computed as described below) bears to D (the total taxable gifts for the calendar quarter or the calendar year, computed without deduction of the gift tax specific exemption). Stated algebraically, the "first limitation" (A) equals

$$\frac{\text{"Amount of the gift" (C)}}{\text{Total taxable gifts, plus specific exemption allowed (D)}} \times \text{Total gift tax paid (B).}$$

For purposes of the ratio stated above, the "amount of the gift" referred to as factor "C" is the value of the gift reduced by any portion exluded or deducted under sections 2503(b) (annual exclusion), 2522 (charitable deduction), or 2523 (marital deduction) of the Internal Revenue Code or corresponding provisions of prior law. In making the computations described in this paragraph, the values to be used are those finally determined for the purpose of the gift tax, irrespective of the values determined for the purpose of the estate tax. A similar computation is made in case only a portion of any gift is included in the decedent's gross estate. The application of this paragraph may be illustrated by the following example:

* * * * *

PAR. 9. Section 20.2032 is amended by revising sections 2032(a) (1) and (2), by revising section 2032(b) and by adding a historical note. These revised and added provisions read as follows:

§ 20.2032 **Statutory provisions; alternate valuation.**

SEC. 2032. *Alternate valuation*—(a) *General.* * * *

(1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.

(2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date 6 months after the decedent's death.

* * * * *

(b) *Special rules.* No deduction under this chapter of any item shall be allowed if allowance for such item is in effect given by the alternate valuation provided by this section. Wherever in any other subsection or section of this chapter reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property used in determining the value of the gross estate. In case of an election made by the executor under this section, then—

(1) For purposes of the charitable deduction under section 2055 or 2106(a) (2), any bequest, legacy, devise, or transfer enumerated therein, and

(2) For the purpose of the marital deduction under section 2056, any interest in property passing to the surviving spouse,

shall be valued as of the date of the decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date 6 months after the decedent's death (substituting, in the case of property distributed by the executor or trustee, or sold, exchanged, or otherwise disposed of, during such 6-month period, the date thereof).

* * * * *

[Sec. 2032 as amended by sec. 101(a), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

PAR. 10. Section 20.2032-1 is amended by revising paragraphs (a)(1), (a)(2), (a)(3), (b), (f)(1), and (g) to read as follows:

§ 20.2032-1 **Alternate valuation.**

(a) *In general.* * * *

(1) Any property distributed, sold, exchanged, or otherwise disposed of within 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death is valued as of the date on which it is first distributed, sold, exchanged, or otherwise disposed of;

(2) Any property not distributed, sold, exchanged, or otherwise disposed of within 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death is valued as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after the date of the decedent's death;

(3) Any property, interest, or estate which is affected by mere lapse of time is valued as of the date of the decedent's death, but adjusted for any difference in its value not due to mere lapse of time as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death, or as of the date of its distribution, sale, exchange, or other disposition, whichever date first occurs.

(b) *Method and effect of election.* (1) While it is the purpose of section 2032 to permit a reduction in the amount of tax that would otherwise be payable if the gross estate has suffered a shrinkage in its aggregate value in the 6 months (1 year, if the decedent died on or before December 31, 1970) following the decedent's death, the alternate valuation method is not automatic but must be elected. Furthermore, the alternate valuation method may be elected whether or not there has been a shrinkage in the aggregate value of the estate. However, the election is not effective for any purpose unless the value of the gross estate at the time of the decedent's death exceeded $60,000, so that an estate tax return is required to be filed under section 6018.

(2) If the alternate valuation method under section 2032 is to be used, section 2032(c) requires that the executor must so elect on the estate tax return required under section 6018, filed within 9 months (15 months, if the decedent died on or before December 31, 1970) from the date of the decedent's death or within the period of any extension of time granted by the district director under section 6081. In no case may the election be exercised, or a previous election changed, after the expiration of such time. If the election is made, it applies to all the property included in the gross estate, and cannot be applied to only a portion of the property.

* * * * *

(f) *Mere lapse of time.* * * *

(1) *Life estates, remainders, and similar interests.* The values of life estates, remainders, and similar interests are to be obtained by applying the methods prescribed in § 20.2031-7, using (i) the age of each person, the duration of whose life may affect the value of the interest, as of the date of the decedent's death, and (ii) the value of the property as of the alternate date. For example, assume that the decedent or his estate was entitled to receive property upon the death of his elder brother who was entitled to receive the income therefrom for life. At the date of the decedent's death, the property was worth $50,000 and the elder brother was 31 years old. The value of the decedent's remainder interest at the date of his death would, as explained in paragraph (d) of § 20.2031-7, be $14,466 ($50,000 × 0.28932). If, because of economic conditions, the property declined in value

and was worth only $40,000, 6 months (1 year if the decedent died on or before December 31, 1970) after the date of the decedent's death, the value of the remainder interest as of the alternate date would be $11,572.80 ($40,000 ×0.28932), even though the elder brother may be 32 years old on the alternate date.

* * * * *

(g) *Effect of election on deductions.* If the executor elects the alternate valuation method under section 2032, any deduction for administration expenses under section 2053(b) (pertaining to property not subject to claims) or losses under section 2054 (or section 2106(a)(1), relating to estates of nonresidents not citizens) is allowed only to the extent that it is not otherwise in effect allowed in determining the value of the gross estate. Furthermore, the amount of any charitable deduction under section 2055 (or section 2106(a)(2), relating to the estates of nonresidents not citizens) or the amount of any marital deduction under section 2056 is determined by the value of the property with respect to which the deduction is allowed as of the date of the decedent's death, adjusted, however, for any difference in its value as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after death, or as of the date of its distribution, sale, exchange, or other disposition, whichever first occurs. However, no such adjustment may take into account any difference in value due to lapse of time or to the occurrence or nonoccurrence of a contingency.

PAR. 11. Section 20.2053–1 is amended by revising paragraph (c)(2) to read as follows:

§ 20.2053–1 Deductions for expenses, indebtedness, and taxes; in general.

* * * * *

(c) *Provision applicable to first category only.* * * *

(2) Amounts paid, out of property not subject to claims against the decedent's estate, within 9 months (15 months in the case of the estate of a decedent dying before January 1, 1971) after the decedent's death (the period within which the estate tax return must be filed under section 6075), or within any extension of time for filing the return granted under section 6081.

* * * * *

PAR. 12. Section 20.2055 is amended by revising section 2055(a) (2) and (3), by revising section 2055(b)(2)(C), by revising section 2055(e), and by revising the historical note. These revised provisions read as follows:

§ 20.2055 Statutory provisions; transfers for public, charitable, and religious uses.

SEC. 2055. *Transfers for public, charitable, and religious uses*—(a) *In general.* * * *

(2) To or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which insures to the benefit of any private stockholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(3) To a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; or

* * * * *

(b) *Powers of appointment* * * *

(2) *Special rule for certain bequests subject to power of appointment.* * * *

(C) Such surviving spouse by affidavit executed within 6 months after the death of the decedent specifies the organizations described in subsection (a)(2) in favor of which he intends to exercise the power of appointment and indicates the amount or proportion each such organization is to receive; and

* * * * *

(e) *Disallowance of deductions in certain cases.* (1) No deduction shall be allowed under this section for a transfer to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

(2) Where an interest in property (other than a remainder interest in a personal residence or farm or an undivided portion of the decedent's entire interest in property) passes or has passed from the decedent to a person, or for a use, described in subsection (a), and an interest (other than an interest which is extinguished upon the decedent's death) in the same property passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to a person, or for a use, not described in subsection (a), no deduction shall be allowed under this section for the interest which passes or has passed to the person, or for the use, described in subsection (a) unless—

(A) In the case of a remainder interest, such interest is in a trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664) or a pooled income fund (described in section 642(c)(5)), or

(B) In the case of any other interest, such interest is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly).

* * * * *

[Sec. 2055 as amended by sec. 1, Act of Aug. 6, 1956 (Pub. Law 1011, 84th Cong., 70 Stat. 1075); sec. 30(d), Technical Amendments Act 1958 (72 Stat. 1631); sec. 201(d), Tax Reform Act 1969 (83 Stat. 560); sec. 101(c), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

PAR. 13. Section 20.2055–2 is amended by revising paragraph (c)(1) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(c) *Disclaimers.* * * *

(1) A disclaimer of a bequest, devise, transfer, or power, if (i) the disclaimer is made within 9 months (15 months, if the decendent died on or before December 31, 1970) after the decendent's death (the period of time within which the estate tax return must be filed under section 6075) or within any extension of time for filing the return granted pursuant to section 6081, and (ii) the disclaimer is irrevocable at the time the deduction is allowed, or

* * * * *

PAR. 14. Section 20.2204 is amended to read as follows:

§ 20.2204 Statutory provisions; discharge of fiduciary from personal liability.

(a) Section 2204 as amended by section 101(d) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

SEC. 2204. *Discharge of fiduciary from personal liability*—(a) *General rule.* If the executor makes written application to the Secretary or his delegate for determination of the amount of the tax and discharge from personal liability therefor, the Secretary or his delegate (as soon as possible, and in any event within 1 year after the making of such application, or, if the application is made before the return is filed then within 1 year after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 6501) shall notify the executor of the amount of the tax. The executor, on payment of the amount of which he is notified (other than any amount the time for payment of which is extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment is extended, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) *Fiduciary other than the executor.* If a fiduciary (not including a fiduciary in respect of the estate of a nonresident decedent) other than the executor makes written application to the Secretary or his delegate for determination of the amount of any estate tax for which the fiduciary may be personally liable, and for discharge from personal liability therefor, the Secretary or his delegate upon the discharge of the executor from personal liability under subsection (a), or upon the expiration of 6 months after the making of such application by the fiduciary, if later, shall notify the fiduciary (1) of the amount of such tax for which it has been determined the fiduciary is liable, or (2) that it has been determined that the fiduciary is not liable for any such tax. Such application shall be accompanied by a copy of the instrument, if any, under which such fiduciary is acting, a description of the property held by the fiduciary, and such other information for purposes of carrying out the provisions of this section as the Secretary or his delegate may require by regulations. On payment of the amount of such tax for which it has been determined the fiduciary is liable (other than any amount the time for payment of which has not been extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment has been extended, or on receipt by him of notification of a determination that he is not liable for any such tax, the fiduciary shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing evidencing such discharge.

[Sec. 2204 as amended by sec. 101(d), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 15. Section 20.2204–1 is amended to read as follows:

§ 20.2204–1 Discharge of executor from personal liability.

(a) *General rule.* The executor of a decedent's estate may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091–1, for a determination of the Federal estate tax and for a discharge of personal liability therefrom. Within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after receipt of the application, or if the application is made before the return is filed then within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after the return is filed, the executor will be notified of the amount of the tax and, upon payment thereof, he will be discharged from personal liability for any deficiency in the tax thereafter found to be due. If no such notification is received, the executor is discharged at the end of such 9 month (1 year if applicable) period from personal liability for any deficiency thereafter found to be due. The discharge of the executor from personal liability under this section applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as executor to the extent of the assets of the estate in his possession or control. Further, the discharge is not to operate as a release of any part of the gross estate from the lien for estate tax for any deficiency that may thereafter be determined to be due.

(b) *Special rule in the case of extension of time for payment of tax.* In addition to the provisions of paragraph (a) of this section, an executor of the estate of a decedent dying after December 31, 1970, may make written application to be discharged from personal liability for the amount of Federal estate tax for which the time for payment has been extended under section 6161, 6163, or 6166. In such a case, the executor will be notified of the amount of bond, if any, to be furnished within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after receipt of the application, or, if the application is made before the return is filed, within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after the return is filed. The amount of any bond required under the provisions of this paragraph shall not exceed the amount of tax the payment of which has been extended. Upon furnishing the bond in the form required under § 301.7101–1 of this chapter (Regulations on Procedure and Administration), or upon receipt of the notification that no bond is required, the executor will be discharged from personal liability for the tax the payment of which has been extended. If no notification is received, the executor is discharged at the end of such 9 month period (or 1 year period if applicable) from personal liability for the tax the payment of which has been extended.

PAR. 16. The following section is inserted immediately before § 20.2205:

§ 20.2204–2 Discharge of fiduciary other than executor from personal liability.

(a) A fiduciary (not including a fiduciary of the estate of a nonresident decedent), other than the executor, who as a fiduciary holds, or has held at any time since the decedent's death, property transferred to the fiduciary from a decedent dying after December 31, 1970, or his estate, may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091–1, for a determination of the Federal estate tax liability with respect to such property and for a discharge of personal liability therefrom. The application must be accompanied by a copy of the instrument, if any, under which the fiduciary is acting, a description of all the property transferred to the fiduciary from the decedent or his estate, and any other information that would be relevant to a determination of the fiduciary's tax liability.

(b) Upon the discharge of the executor from personal liability under § 20.2204–1, or, if later, within 6 months after the receipt of the application filed by a fiduciary pursuant to the provisions of paragraph (a) of this section, such fiduciary will be notified either (1) of the amount of tax for which it has been determined the fiduciary is liable, or (2) that it has been determined that the fiduciary is not liable for any such tax. The fiduciary will also be notified of the amount of bond, if any, to be furnished for any Federal estate tax for which the time for payment has been extended under section 6161, 6163, or 6166. The amount of any bond required under the provisions of this paragraph shall not exceed the amount of tax the payment of which has been so extended. Upon payment of the amount for which it has been determined the fiduciary is liable, and upon furnishing any bond required under this paragraph in the form specified under § 301.7101–1 of this chapter (Regulations on Procedure and Administration), or upon receipt by the fiduciary of notification of a determination that he is not liable for such tax or that a bond is not required, the fiduciary will be discharged from personal liability for any deficiency in the tax thereafter found to be due. If no such notification is received, the fiduciary is discharged at the end of such 6 months (or upon discharge of the executor, if later) from personal liability for any deficiency thereafter found to be due. The discharge of the fiduciary from personal liability under this section applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as a fiduciary (such as a trustee) to the extent of the assets of the estate in his possession or control. Further, the discharge is not to operate as a release of any part of the gross estate from the lien for estate tax for any deficiency that may thereafter be determined to be due.

PAR. 17. Section 20.6001–1 is amended by revising paragraph (b) to read as follows:

§ 20.6001–1 Persons required to keep records and render statements.

* * * * *

(b) In addition to filing an estate tax return (see § 20.6018–1) and, if applicable, a preliminary notice (see § 20.6036–1), the executor shall furnish such supplemental data as may be necessary to establish the correct estate tax. It is therefore the duty of the executor (1) to furnish, upon request, copies of any documents in his possession (or on file in any court having jurisdiction over the estate) relating to the estate, appraisal lists of any items included in the gross estate, copies of balance sheets or other financial statements obtainable by him relating to the value of stock, and any other information obtainable by him that may be found necessary in the determination of the tax, and (2) to render any written statement, containing a declaration that it is made under penalties of perjury, of facts within his knowledge which the district director may require for the purpose of determining whether a tax liability exists and, if so, the extent thereof. Failure to comply with such a request will render the executor liable to penalties (see section 7269), and proceedings may be instituted in the proper court of the United States to secure compliance therewith (see section 7604).

* * * * *

PAR. 18, Section 20.6011–1 is amended by revising paragraph (b) to read as follows:

§ 20.6011–1 General requirement of return, statement, or list.

* * * * *

(b) *Use of prescribed forms.* Copies of the forms prescribed by §§ 20.6018–1 and 20.6036–1 may be obtained from district directors. The fact that an executor has not been furnished with copies of these forms will not excuse him from making a return or, if applicable, from filing a preliminary notice. Application for a form shall be made to the district director in ample time for the executor to have the form prepared, verified, and filed with the appropriate internal revenue office on or before the date prescribed for the filing thereof (see §§ 20.6071–1 and 20.6075–1). The executor shall carefully prepare the return and, if applicable, the preliminary notice so as to set forth fully and clearly the data called for therein. A return or, if applicable, a preliminary notice which has not been so prepared will not be accepted as meeting the requirements of §§ 20.6018-1 through 20.6018-4, and § 20.6036-1.

PAR. 19. Section 20.6018-3 is amended by revising paragraph (c)(6) to read as follows:

§ 20.6018-3 Returns; contents of return.

* * * * *

(c) *Provisions applicable to returns described in paragraphs (a) and (b) of this section.* * * *

(6) If, pursuant to section 2032, the executor elects to have the estate valued at a date or dates subsequent to the time of the decedent's death, there must be set forth on the return: (i) An itemized description of all property included in the gross estate on the date of the decedent's death, together with the value of each item as of that date; (ii) an itemized disclosure of all distributions, sales, exchanges, and other dispositions of any property during the 6 month (1 year, if the decedent died on or before December 31, 1970) period after the date of the decedent's death, together with the dates thereof; and (iii) the value of each item of property in accordance with the provisions of section 2032 (see § 20.2032-1). Interest and rents accrued at the date of the decedent's death and dividends declared to stockholders of record on or before the date of the decedent's death and not collected at that date are to be shown separately. (See also paragraph (e) of § 20.6018-4 with respect to documents required to be filed with the return.)

* * * * *

PAR. 20. Section 20.6018-4 is amended by revising paragraph (e) to read as follows:

§ 20.6018-4 Returns; documents to accompany the return.

* * * * *

(e) If, pursuant to section 2032, the executor elects to have the estate valued at a date or dates subsequent to the time of the decedent's death, the executor shall file with the return evidence in support of any statements made by him in the return as to distributions, sales, exchanges, or other dispositions of property during the 6 month (1 year, if the decedent died on or before December 31, 1970) period which followed the decedent's death. If the court having jurisdiction over the estate makes an order or decree of distribution during that period, a certified copy thereof must be submitted as part of the evidence. The district director, or the director of a service center, may require the submission of such additional evidence as is deemed necessary.

* * * * *

PAR. 21. Section 20.6036-1 is amended to read as follows:

§ 20.6036-1 Notice of qualification as executor of estate of decedent dying before 1971.

(a) *Preliminary notice.* With respect to the estate of a decedent dying before January 1, 1971, a preliminary notice is required to be filed on Form 704 in the case of every citizen or resident of the United States whose gross estate exceeded $60,000 in value at the date of death, and on Form 705 in the case of every nonresident who is not a citizen if that part of his gross estate which was situated in the United States (see § 20.2104-1) exceeded $2,000 in value at the date of death. The value of the gross estate at the date of death governs with respect to the filing of the notice regardless of whether the value of the gross estate is, at the executor's election, finally determined as of a date subsequent to the date of death pursuant to the provisions of section 2032. If there is doubt as to whether the gross estate exceeds $60,000 or $2,000, as the case may be, the notice shall be filed as a matter of precaution in order to avoid the possibility of penalties attaching. The primary purpose of the notice is to advise the Internal Revenue Service of the existence of taxable estates, and filing shall not be delayed beyond the period provided for in § 20.6071-1 merely because of uncertainty as to the exact value of the assets. The estimate of the gross estate called for by the notice shall be the best approximation of value which can be made within the time allowed. Duplicate copies of the preliminary notice are not required to be filed. For criminal penalties for failure to file a notice and filing a false or fraudulent notice, see sections 7203, 7207, and 7269. See § 20.6091-1 for the place for filing the notice. See § 20.6071-1 for the time for filing the notice.

(b) *Persons required to file.* In the case of an estate of a citizen or resident of the United States described in paragraph (a) of this section, the preliminary notice must be filed by the duly qualified executor or administrator, or if none qualifies within two months after the decedent's death, by every person in actual or constructive possession of any property of the decedent at or after the time of the decedent's death. The signature of one executor or administrator on the preliminary notice is sufficient. In the case of a nonresident not a citizen, the notice must be filed by every duly qualified executor or administrator within the United States, or if none qualifies within two months after the decedent's death, by every person in actual or constructive possession of any property of the decedent at or after the time of the decedent's death.

PAR. 22. The following new section is added immediately before § 20.6061:

§ 20.6036-2 Notice of qualification as executor of estate of decedent dying after 1970.

In the case of the estate of a decedent dying after December 31, 1970, no special notice of qualification as executor of an estate is required to be filed. The requirement of section 6036 for notification of qualification as executor of an estate shall be satisfied by the filing of the estate tax return required by section 6018 and the regulations thereunder.

PAR. 23. Section 20.6071-1 is amended to read as follows:

§ 20.6071-1 Time for filing preliminary notice required by § 20.6036-1.

In the case of the estate of a decedent dying before January 1, 1971, if a duly qualified executor or administrator of the estate of such a decedent who was a resident or a citizen of the United States qualifies within two months after a decedent's death, or if a duly qualified executor or administrator of the estate of such a decedent who was a nonresident not a citizen qualifies within the United States within two months after the decedent's death, the preliminary notice required by § 20.6036-1 must be filed within two months after his qualification. If no such executor or administrator qualifies within that period, the preliminary notice must be filed within two months of the decedent's death.

PAR. 24. Section 20.6075 is amended by revising section 6075(a) and adding a historical note. These revised and added provisions read as follows:

§ 20.6075 Statutory provisions; time for filing estate tax return.

SEC. 6075. *Time for filing estate and gift tax returns*—(a) *Estate tax returns.* Returns made under section 6018(a) (relating to estate taxes) shall be filed within 9 months after the date of the decedent's death.

* * * * *

[Sec. 6075 as amended by sec. 101(b), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836)]

PAR. 25. Section 20.6075-1 is amended to read as follows:

§ 20.6075-1 Returns; time for filing estate tax return.

The estate tax return required by section 6018 must be filed on or before the due date. The due date is the date on or before which the return is required to be filed in accordance with the provisions of section 6075(a) or the last day of the period covered by an extension of time granted by the district director or the director of a service center as provided in § 20.6081-1. The due date, with respect to a decedent dying after December 31, 1970, is, unless an extension of time for filing has been granted, the day of the ninth calendar month after the decedent's death numerically corresponding to the day of the calendar month on which death occurred, except that, if there is no numerically corresponding day in such ninth month, the last day of the ninth month is the due date. For example, if the decedent dies on July 31, 1972, the estate tax return and tax payment must be made on or before April 30, 1973. The due date, with respect to a decedent dying before January 1, 1971, is, unless an extension of time for filing has been granted, the day of the fifteenth calendar month after the decedent's death numerically corresponding to the day of the calendar month on which death occurred, except that, if there is no numerically corresponding day in such fifteenth month, the last day of the fifteenth month is the due date. When the due date falls on Saturday, Sunday, or a legal holiday, the due date for filing the return is the next succeeding day which is not Saturday, Sunday, or a legal holiday. For definition of a legal holiday, see section 7503 and § 301.7503–1 of this chapter (Regulations on Procedure and Administration). As to additions to the tax in the case of failure to file the return or pay the tax within the prescribed time, see section 6651 and § 301.6651–1 of this chapter (Regulations on Procedure and Administration). For rules with respect to the right to elect to have the property valued as of a date or dates subsequent to the decedent's death, see § 20.2032–1, and section 7502 and § 301.7502–1 of this chapter (Regulations on Procedure and Administration).

PAR. 26. Section 20.6081–1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 20.6081–1 Extension of time for filing the return.

(a) In case it is impossible or impracticable for the executor to file a reasonably complete return within 9 months (15 months in the case of a decedent dying before January 1, 1971) from the date of death, the district director or the director of a service center may, upon a showing of good and sufficient cause, grant a reasonable extension of time for filing the return required by section 6018. Unless the executor is abroad, the extension may not be for more than six months from the date for filing provided by section 6075(a). Therefore, unless the executor is abroad, the due date for filing the return under any extension granted by a district director or a director of a service center may not be later than 15 months (21 months in the case of a decedent dying before January 1, 1971) from the date of the decedent's death. The extension may, of course, be for a lesser period of time.

(b) Except as provided in paragraph (b) of § 301.6091–1 of this chapter (Regulations on Procedure and Administration), relating to hand-carried documents, such application shall be made to the internal revenue officer with whom the estate tax return is required to be filed and must contain a full recital of the causes for the delay. It should be made before the expiration of the time within which the return otherwise must be filed and failure to do so may indicate negligence and constitute sufficient cause for denial. It should, where possible, be made sufficiently early to permit the internal revenue officer to consider the matter and reply before what otherwise would be the due date of the return.

* * * * *

PAR. 27. Section 20.6091 is amended by revising section 6091(b)(3), by redesignating section 6091(b)(4) as section 6091(b)(5), by revising section 6091(b)(5), by adding a new paragraph (4) immediately after section 6091(b)(3), and by adding a historical note. These revised, redesignated and added provisions read as follows:

§ 20.6091 Statutory provisions; place for filing returns or other documents.

SEC. 6091. *Place for filing returns or other documents* * * *

(b) *Tax returns.* * * *

(3) *Estate tax returns*—(A) *General rule.* Except as provided in subparagraph (B), returns of estate tax required under section 6018 shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which was the domicile of the decedent at the time of his death, or

(ii) At a service center serving the internal revenue district referred to in clause (i), as the Secretary or his delegate may by regulations designate.

(B) *Exception.* If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary or his delegate may by regulations designate.

(4) *Hand-carried returns.* Notwithstanding paragraph * * * (3), a return to which paragraph * * * (3)(A) would apply, but for this paragraph, which is made to the Secretary or his delegate by hand-carrying shall, under regulations prescribed by the Secretary or his delegate, be made in the internal revenue district referred to in paragraph * * * (3)(A)(i) * * *.

(5) *Exceptional cases.* Notwithstanding paragraph * * * (3), or (4) of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary or his delegate.

[Sec. 6091 as amended by sec. 1(a), Act of Nov. 2, 1966 (Public Law 89–713, 80 Stat. 1107); sec. 101(i)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 28. Section 20.6091–1 is amended to read as follows:

§ 20.6091–1 Place for filing returns or other documents.

(a) *General rule.* If the decedent was domiciled in the United States at the time of his death, the preliminary notice required by § 20.6036–1 in the case of the estate of a decedent dying before January 1, 1971, and the estate tax return required by § 20.6018–1 shall be filed with:

(1) The service center serving the district in which the decedent was domiciled at the time of his death, if the instructions applicable to the estate tax return provide that the return shall be filed with a service center, or

(2) The district director in whose district the decedent was domiciled at the time of his death, if subparagraph (1) of this paragraph does not apply.

Subparagraph (1) of this paragraph does not apply if the return is made by hand-carrying or if the instructions applicable to the preliminary notice or to the return do not provide that it shall be filed with a service center.

(b) *Non-U.S. domiciliaries.* If the decedent was not domiciled in the United States at the time of his death, the preliminary notice required by § 20.6036–1 in the case of the estate of a decedent dying before January 1, 1971, and the estate tax return required by § 20.6018–1 shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. This paragraph applies whether or not the decedent was a citizen of the United States and whether or not the return is made by hand-carrying.

PAR. 29. Section 20.6161 is amended by revising section 6161(a)(1), by revising so much of section 6161(b) as follows paragraph (1), and by revising the historical note. These revised provisions read as follows:

§ 20.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (12 months in the case of estate tax) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* * * *

(2) In the case of a tax imposed by chapter 11, for a period not to exceed 4 years from the date otherwise fixed for payment of the deficiency.

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

[Sec. 6161 as amended by sec. 206(c), Small Business Tax Revision Act 1958 (72 Stat. 1684); sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 30. Section 20.6161–1 is amended to read as follows:

§ 20.6161–1 Extension of time for paying tax shown on return.

(a) *Basis for granting an extension of time*—(1) *Reasonable cause.* With respect to the estate of a decedent dying after December 31, 1970, an extension of time beyond the due date to pay any part of the tax shown on the estate tax return may be granted for a reasonable period of time, not to exceed 12 months, by the district director or the director of a service center, at the request of the executor, if an examination of all the facts and circumstances discloses that such request is based upon reasonable cause. (See paragraph (b) of this section for rules relating to application for extension.) The following examples illustrate cases involving reasonable cause for granting an extension of time pursuant to this paragraph:

Example (1). An estate includes sufficient liquid assets to pay the estate tax when otherwise due. The liquid assets, however, are located in several jurisdictions and are not immediately subject to the control of the executor. Consequently, such assets cannot readily be marshaled by the executor, even with the exercise of due diligence.

Example (2). An estate is comprised in substantial part of assets consisting of rights to receive payments in the future (i.e., annuities, copyright royalties, contingent fees, or accounts receivable). These assets provide insufficient present cash with which to pay the estate tax when otherwise due and the estate cannot borrow against these assets except upon terms which would inflict loss upon the estate.

Example (3). An estate includes a claim to substantial assets which cannot be collected without litigation. Consequently, the size of the gross estate is unascertainable as of the time the tax is otherwise due.

Example (4). An estate does not have sufficient funds (without borrowing at a rate of interest higher than that generally available) with which to pay the entire estate tax when otherwise due, to provide a reasonable allowance during the remaining period of administration of the estate for the decedent's widow and dependent children, and to satisfy claims against the estate that are due and payable. Furthermore, the executor has made a reasonable effort to convert assets in his possession (other than an interest in a closely held business to which section 6166 applies) into cash.

Example (5). Payment of a portion of the estate tax shown on the estate tax return would impose an undue hardship upon the estate for purposes of subparagraph (2) of this paragraph but the application for an extension of time for paying such portion is limited to a request for an extension under section 6161(a)(1) on the basis of reasonable cause. In such a case, the rate of interest is 6 percent per annum pursuant to the general rule of § 301.6601-1 of this chapter rather than the 4 percent per annum rate of interest on an underpayment in the case where the time for payment of estate tax is extended under section 6161(a)(2) on the basis of undue hardship. See paragraph (b) of this section with respect to an application for extension.

(2) *Undue hardship* — (i) *General rule*. In any case where the district director finds that payment on the due date of any part of the tax shown on the return, or payment of any part of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived) on the date fixed for payment thereof, would impose undue hardship upon the estate, he may extend the time for payment for a period or periods not to exceed one year for any one period and for all periods not to exceed 10 years from the date prescribed in section 6151(a) for payment of the tax. See paragraph (a) of § 20.6151-1. In addition, if the district director finds that payment upon notice and demand of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived would impose undue hardship upon the estate, he may extend the time for payment for a similar period or periods.

(ii) *Definition of "undue hardship"*. The extension provided under this subparagraph on the basis of undue hardship to the estate will not be granted upon a general statement of hardship or merely upon a showing of reasonable cause. The term "undue hardship" means more than an inconvenience to the estate. A sale of property at a price equal to its current fair market value, where a market exists, is not ordinarily considered as resulting in an undue hardship to the estate. The following examples illustrate cases in which an extension of time will be granted based on undue hardship pursuant to this paragraph:

Example (1). A farm (or other closely held business) comprises a significant portion of an estate, but the percentage requirements of section 6166(a) (relating to an extension where the estate includes a closely held business) are not satisfied and, therefore, that section does not apply. Sufficient funds for the payment of the estate tax when otherwise due are not readily available. The farm (or closely held business) could be sold to unrelated persons at a price equal to its fair market value, but the executor seeks an extension of time to facilitate the raising of funds from other sources for the payment of the estate tax.

Example (2). The assets in the gross estate which must be liquidated to pay the estate tax can only be sold at a sacrifice price or in a depressed market if the tax is to be paid when otherwise due.

(b) *Application for extension*. An application containing a request for an extension of time for paying the tax shown on the return shall be in writing, shall state the period of the extension requested, and shall include a declaration that it is made under penalties of perjury. If the application is based upon reasonable cause (see paragraph (a)(1) of this section), a statement of such reasonable cause shall be included in the application. If the application is based upon undue hardship to the estate (see paragraph (a)(2) of this section), the application shall include a statement explaining in detail the undue hardship to the estate that would result if the requested extension were refused. At the option of the executor, an application for an extension of time based upon undue hardship may contain an alternative request for an extension based upon reasonable cause if the application for an extension based upon undue hardship is denied. However, an application for an extension of time based solely upon reasonable cause will be treated as such even though an examination of all the facts and circumstances discloses that an application for an extension of time based upon undue hardship might have been granted had such an application therefor been made. If the application is based solely on reasonable cause, it shall be filed with the internal revenue officer with whom the estate tax return is required to be filed under the provisions of § 20.6091-1(a). If the application is based on undue hardship (including an application in which the executor makes an alternative request for an extension based on reasonable cause), it shall be filed with the appropriate district director referred to in paragraph (a)(2) of § 20.6091-1 whether or not the return is to be filed with, or the tax is to be paid to, such district director. An application, for an extension of time, relating to the estate of a decedent who was not domiciled in the United States at the time of death, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225. When received, the application will be examined, and, if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. An application for an extension of time for payment of the tax, or of an installment under section 6166 (including any part of a deficiency prorated to an installment the date for payment of which had not arrived), will not be considered unless the extension is applied for on or before the date fixed for payment of the tax or installment. Similarly, an application for such an extension of time for payment of any part of a deficiency prorated under the provisions of section 6166 to installments the date for payment of which had arrived, will not be considered unless the extension is applied for on or before the date prescribed for payment of the deficiency as shown by the notice and demand from the district director. If the executor desires to obtain an additional extension of time for payment of any part of the tax shown on the return, or any part of an installment under section 6166 (including any part of a deficiency prorated to installment), it must be applied for on or before the date of the expiration of the previous extension. The granting of the extension of time for paying the tax is discretionary with the appropriate internal revenue officer and his authority will be exercised under such conditions as he may deem advisable. However, if a request for an extension of time for payment of estate tax under this section is denied by a district director or a director of a service center, a written appeal may be made, by registered or certified mail or hand delivery, to the regional commissioner with authority over such district director or service center director within 10 days after the denial is mailed to the executor. The provisions of sections 7502 (relating to timely mailing treated as timely filing) and 7503 (relating to time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday) apply in the case of appeals filed under this paragraph. When received, the appeal will be examined, and if possible, within 30 days will be denied, granted, or tentatively granted subject to certain conditions of which the executor will be notified. If, in the mistaken belief that an estate satisfies the requirements of section 6166, the executor, within the time prescribed in paragraph (e) of § 20.6166-1, files a notification of election to pay estate tax in installments, the notification of election to pay tax in installments will be treated as a timely filed application for an extension, under section 6161, of time for payment of the tax if the executor so requests, in writing, within a reasonable time after being notified by the district director that the estate does not satisfy the requirements of section 6166. A request that the election under section 6166 be treated as a timely filed application for an extension under section 6161 must contain, or be supported by the same information required by this paragraph with respect to an application for such an extension.

(c) *Special rules*—(1) *Payment pursuant to extension.* The amount of the tax for which an extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the district director.

(2) *Interest.* The granting of an extension of the time for payment of the tax will not relieve the estate from liability for the payment of interest thereon during the period of the extension. See section 6601.

(3) *Duty to file timely return.* The granting of an extension of time for paying the tax will not relieve the executor from the duty of filing the return on or before the date provided for in § 20.6075–1.

(4) *Credit for taxes.* An extension of time to pay the tax may extend the period within which State and foreign death taxes allowed as a credit under sections 2011 and 2014 are required to be paid and the credit therefor claimed. See paragraph (c) of § 20.2011–1 and § 20.2014–6.

(d) *Cross references.* For provisions requiring the furnishing of security for the payment of the tax for which an extension is granted, see paragraph (a) of § 20.6165–1. For provisions relating to extensions of time for payment of tax on the value of a reversionary or remainder interest in property, see § 20.6163–1.

PAR. 31. Section 20.6163–1 is amended by revising so much of paragraph (a) (2) as follows subdivision (ii) to read as follows:

§ 20.6163–1 Extension of time for payment of estate tax on value of reversionary or remainder interest in property.

(a) * * *

(2) * * *

See paragraph (a)(2)(ii) of § 20.6161–1 for the meaning of the term "undue hardship". An example of undue hardship is a case where, by reason of the time required to settle the complex issues involved in a trust, the decedent's heirs or beneficiaries cannot reasonably expect to receive the decedent's remainder interest in the trust before the expiration of the period of postponement. The extension will be granted only in the manner provided in paragraph (b) of § 20.6161–1, and the amount of the tax for which the extension is granted, with the additions thereto, shall be paid on or before the expiration of the period of extension without the necessity of notice and demand from the district director.

* * * * *

PAR. 32. Section 20.6166–1 is amended by revising paragraph (e) (2) to read as follows:

§ 20.6166–1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

* * * * *

(e) *Notice of election.* * * *

(2) *Form of notice.* The notice of election to pay the estate tax in installments may be in the form of a letter addressed to the district director. The executor shall state in the notice the amount of tax which he elects to pay in installments, and the total number of installments (including the installment due 9 months (15 months, in the case of a decedent dying before January 1, 1971) after the date of the decedent's death) in which he elects to pay the tax. The properties in the gross estate which constitute the decedent's interest in a closely held business should be listed in the notice, and identified by the schedule and item number at which they appear on the estate tax return. The notice should set forth the facts which formed the basis for the executor's conclusion that the estate qualifies for the payment of the estate tax in installments.

* * * * *

PAR. 33. Section 20.6314 is amended by revising section 6314(c) (2) and by adding a historical note. These revised and added provisions read as follows:

§ 20.6314 Statutory provisions; receipt for taxes.

SEC. 6314. *Receipt for taxes.*

* * * * *

(c) *Cross references.* * * *

(2) For receipt of discharge of fiduciary from personal liability, see section 2204.

[Sec. 6314 as amended by sec. 101(d) (2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 34. Section 20.6314–1 is amended to read as follows:

§ 20.6314–1 Duplicate receipts for payment of estate taxes.

The internal revenue officer with whom the estate tax return is filed will, upon request, give to the person paying the tax duplicate receipts, either of which will be sufficient evidence of such payment and entitle the executor to be credited with the amount by any court having jurisdiction to audit or settle his accounts.

PAR. 35. Section 20.6324 is amended to read as follows:

§ 20.6324 Statutory provisions; special liens for estate and gift taxes.

SEC. 6324. *Special liens for estate and gift taxes*—(a) *Liens for estate tax.* Except as otherwise provided in subsection (c)—

(1) *Upon gross estate.* Unless the estate tax imposed by chapter 11 is sooner paid in full, or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) *Liability of transferees and others.* If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employees' trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser or holder of a security interest shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

(3) *Continuance after discharge of fiduciary.* The provisions of section 2204 (relating to discharge of fiduciary from personal liability) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a purchaser or a holder of a security interest, in which case such part (or such interest) shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser or holder of a security interest, by the heirs, legatees, devisees, or distributees.

* * * * *

(c) *Exceptions.* (1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

[Sec. 6324 as amended by sec. 236 (b), (c), Rev. Act 1964 (78 Stat. 127, 128); sec. 102, Federal Tax Lien Act 1966 (80 Stat. 1132); sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 36. The following new sections are inserted immediately before section 20.7101:

§ 20.6905 Statutory provisions; discharge of executor from personal liability for decedent's income and gift taxes.

(a) Section 6905 as added by section 101 (e) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

SEC. 6905. *Discharge of executor from personal liability for decedent's income and gift taxes*—(a) *Discharge of liability.* In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) for release from personal liability for such taxes, the Secretary or his delegate may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 1 year after receipt of the application if no notification is made by the Secretary or his delegate before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) *Definition of executor.* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross reference.* For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204.

[Sec. 6905 as added by sec. 101(e), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

§ 20.6905-1 Discharge of executor from personal liability for decedent's income and gift taxes.

For regulations concerning the discharge of an executor from personal liability for a decedent's income and gift taxes, see § 301.6905-1 of this chapter (Regulations on Procedure and Administration).

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

PAR. 37. Section 25.0-1 is amended by revising paragraph (a)(1) to read as follows:

§ 25.0-1 Introduction.

(a) *In general.* (1) The regulations in this part are designated "Gift Tax Regulations." These regulations pertain to (i) the gift tax imposed by chapter 12 of subtitle B of the Internal Revenue Code on the transfer of property by gift by individuals in the calendar year 1955, in subsequent calendar years beginning before the calendar year 1971 and in calendar quarters beginning with the first calendar quarter of calendar year 1971, and (ii) certain related administrative provisions of subtitle F of the Code. It should be noted that the application of some of the provisions of these regulations may be affected by the provisions of an applicable gift tax convention with a foreign country. Unless otherwise indicated, references in these regulations to the "Internal Revenue Code" or the "Code" are references to the Internal Revenue Code of 1954, as amended, and references to a section or other provision of law are references to a section or other provision of the Internal Revenue Code of 1954, as amended. The Gift Tax Regulations are applicable to the transfer of property by gift by individuals in calendar years 1955 through 1970 and in calendar quarters beginning with the first calendar quarter of calendar year 1971, and supersede the regulations contained in Part 86, Subchapter B, Chapter 1, Title 26, Code of Federal Regulations (1939) (Regulations 108, Gift Tax (8 F.R. 10858)), as prescribed and made applicable to the Internal Revenue Code of 1954 by Treasury Decision 6091, signed August 16, 1954 (19 F.R. 5167, Aug. 17, 1954). The regulations in this part do not reflect the amendments made by the Foreign Investors Tax Act of 1966 (80 Stat. 1539) except as provided in § 25.2501.

* * * * *

PAR. 38. Section 25.2501 is amended by revising section 2501(a) and the historical note to read as follows:

§ 25.2501 Statutory provisions; imposition of tax.

SEC. 2501. *Imposition of tax*—(a) *Taxable transfers*—(1) *General rule.* For the first calendar quarter of calendar year 1971 and each calendar quarter thereafter a tax, computed as provided in section 2502, is hereby imposed on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident.

(2) *Transfers of intangible property.* Except as provided in paragraph (3), paragraph (1) shall not apply to the transfer of intangible property by a nonresident not a citizen of the United States.

(3) *Exceptions.* Paragraph (2) shall not apply in the case of a donor who at any time after March 8, 1965, and within the 10-year period ending with the date of transfer lost United States citizenship unless—

(A) Such donor's loss of United States citizenship resulted from the application of section 301(b), 350, or 355 of the Immigration and Naturalization Act, as amended (8 U.S.C. 1401(b), 1482, or 1487), or

(B) Such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

(4) *Burden of proof.* If the Secretary or his delegate establishes that it is reasonable to believe that an individual's loss of United States citizenship would, but for paragraph (3), result in a substantial reduction for the calendar quarter in the taxes on the transfer of property by gift, the burden of proving that such loss of citizenship did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A shall be on such individual.

* * * * *

[Sec. 2501 as amended by secs. 43(b) and 102(b), Technical Amendments Act 1958 (72 Stat. 1641, 1674); sec. 4(d), Act of Sept. 14, 1960 (Public Law 86-779, 74 Stat. 1000); sec. 109(a), Foreign Investors Tax Act 1966 (80 Stat. 1574); sec. 102(a)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 39. Section 25.2501-1 is amended by revising paragraph (a) to read as follows:

§ 25.2501-1 Imposition of tax.

(a) *In general.* The tax applies to all transfers by gift of property, wherever situated, by an individual who is a citizen or resident of the United States, to the extent the value of the transfers exceeds the amount of the exclusions authorized by section 2503 and the deductions authorized by sections 2521, 2522, and 2523. With respect to calendar years after 1954 and prior to 1971, the tax is imposed on the transfer of property by gift during such calendar year. With respect to the first calendar quarter of calendar year 1971 and each calendar quarter thereafter, the tax is imposed on the transfer of property by gift during such calendar quarter. The tax does not apply to a transfer of intangible property by a nonresident who is not a citizen of the United States and who was not engaged in business in the United States during the calendar year in which the transfer was made. For additional rules relating to the application of the tax to transfers by nonresidents not citizens of the United States, see section 2511 and § 25.2511-3.

* * * * *

PAR. 40. Section 25.2502 is amended by revising so much of subsection (a) of section 2502 as precedes the rate schedule, by revising subsections (b) and (c) of section 2502, and by adding a historical note. These revised and added provisions read as follows:

§ 25.2502 Statutory provisions; rate of tax.

SEC. 2502. *Rate of Tax*—(a) *Computation of tax.* The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

(1) A tax, computed in accordance with the rate schedule set forth in this subsection, on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over

(2) A tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters.

* * * * *

(b) *Calendar quarter.* Wherever used in this title in connection with the gift tax imposed by this chapter, the term "calendar quarter" includes only the first calendar quarter of the calendar year 1971 and succeeding calendar quarters.

(c) *Preceding calendar years and quarters.* Wherever used in this title in connection with the gift tax imposed by this chapter—

(1) The term "preceding calendar years" means calendar years 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970. The term "calendar year 1932" includes only the portion of such year after June 6, 1932.

(2) The term "preceding calendar quarters" means the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the calendar quarter for which the tax is being computed.

* * * * *

[Sec. 2502 as amended by sec. 102(a)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1839)]

PAR. 41. Section 25.2502-1 is amended by revising paragraph (a), by redesignating paragraph (c) as (d), by adding a new paragraph (c) immediately after paragraph (b), by revising example (1) of new paragraph (d), and by adding example (5) to new paragraph (d) immediately after example (4). These revised and added provisions read as follows:

§ 25.2502-1 Rate of tax.

(a) *Computation of tax*—(1) *Gifts made after December 31, 1970.* In the case of gifts made after December 31, 1970, the gift tax is imposed on a calendar quarter basis, rather than on a yearly basis. For such gifts, the rate of tax is determined by the total of all gifts made by the donor during the calendar quarter and all the preceding calendar years and calendar quarters since June 6, 1932. See § 25.2502-1(c) for the definition of "calendar quarter" and "preceding calendar years and calendar quarters." The following subdivisions set forth the six steps to be followed in computing the tax:

(i) *First step.* Ascertain the amount of the "taxable gifts" for the calendar quarter for which the return is being prepared. For the meaning of this term see § 25.2503–1.

(ii) *Second step.* Ascertain "the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters," considering only those gifts made after June 6, 1932. For the meaning of this term see § 25.2504–1.

(iii) *Third step.* Ascertain the total amount of the taxable gifts, which is the sum of the amounts determined in the first and second steps.

(iv) *Fourth step.* Compute the tax on the total amount of taxable gifts (as determined in the third step) using the rate schedule set forth in paragraph (b) of this section.

(v) *Fifth step.* Compute the tax on "the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters" (as determined in the second step), using the rate schedule set forth in paragraph (b) of this section.

(vi) *Sixth step.* Subtract the amount determined in the fifth step from the amount determined in the fourth step. The amount remaining is the gift tax for the calendar quarter for which the return is being prepared.

(2) *Gifts made before January 1, 1971.* In the case of gifts made prior to January 1, 1971, the gift tax is imposed on a calendar year basis, rather than on a quarterly basis. For such gifts, the rate of tax is determined by the total of all gifts made by the donor during the calendar year and in all preceding calendar years since June 6, 1932. See § 25.2502–1(c) for the definition of "preceding calendar years". The following subdivisions set forth the six steps to be followed in computing the tax:

(i) *First step.* Ascertain the amount of the "taxable gifts" for the calendar year for which the return is being prepared. For the meaning of this term see § 25.2503–1.

(ii) *Second step.* Ascertain "the aggregate sum of the taxable gifts for each of the preceding calendar years," considering only those gifts made after June 6, 1932. For the meaning of this term see § 25.2504–1.

(iii) *Third step.* Ascertain the total amount of the taxable gifts, which is the sum of the amounts determined in the first and second steps.

(iv) *Fourth step.* Compute the tax on the total amount of taxable gifts (as determined in the third step) using the rate schedule set forth in paragraph (b) of this section.

(v) *Fifth step.* Compute the tax on "the aggregate sum of the taxable gifts for each of the preceding calendar years" (as determined in the second step), using the rate schedule set forth in paragraph (b) of this section.

(vi) *Sixth step.* Subtract the amount determined in the fifth step from the amount determined in the fourth step. The amount remaining is the gift tax for the calendar year for which the return is being prepared.

* * * * *

(c) *Definitions*—(1) The term "calendar quarter" includes only the first calendar quarter of the calendar year 1971 and each succeeding calendar quarter.

(2) The term "preceding calendar years" means calendar years 1932 (but only the portion of such year after June 6, 1932) through 1970.

(3) The term "preceding calendar quarters" means the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the calendar quarter for which the tax is being computed.

(4) The term "preceding calendar years and calendar quarters" means a period that consists of the "preceding calendar years" and the "preceding calendar quarters."

(d) *Examples.* * * *

Example (1). Assume that in 1955 the donor made taxable gifts, as ascertained under the first step (paragraph (a)(2) of this section), of $62,500 and that there were no taxable gifts for prior years, with the result that the amount ascertained under the third step is $62,500. Under the fourth step a tax is computed on this amount. Reference to the table discloses that the specified amount in column (A) nearest to and less than $62,500 is $60,000. The tax on this amount, as shown in column (C), is $7,125. The amount by which the taxable gifts exceeds the specified amount is $2,500 and the tax on such excess amount, computed at the rate of 21 percent as shown in column (D), is $525. The tax on taxable gifts of $62,500 is the sum of $7,125 and $525, or $7,650.

* * * * *

Example (5). A makes gifts (other than gifts of future interests in property) to B in the first quarter of 1971 of $43,000 and in the second quarter of 1971 of $60,000. A gave to C in the second quarter of 1971 land valued at $11,000. The full amount of A's specific exemption provided under section 2521 was claimed and allowed in 1956. In 1966, A made taxable gifts totaling $21,000 on which gift tax was timely paid and no other taxable gifts were made by A in any other year preceding 1971. The gift tax return due for the first calendar quarter of 1971 was timely filed and the tax paid. With respect to the gifts made to B in 1971, the $3,000 annual gift tax exclusion provided by section 2503(b) is applied in its entirety against the $43,000 gift made to B in the first quarter and therefore is not available to offset the $60,000 gift made to B in the second quarter. (See § 25.2503–2(a).) A further $3,000 annual gift tax exclusion is available, however, to offset the $11,000 gift made to C in the second quarter of 1971. The computation of the gift tax for the second calendar quarter of 1971 due on August 15, 1971 (following the steps set forth in paragraph (a)(1) of this section) is shown below:

(1) Amount of taxable gifts for the second calendar quarter of 1971 ($60,000+$11,000−$3,000)	$68,000
(2) Total amount of taxable gifts for preceding calendar years and calendar quarters ($43,000−$3,000+$21,000)	61,000
(3) Total taxable gifts	129,000
(4) Tax computed on item 3 (in accordance with rate schedule in paragraph (b))	22,050
(5) Tax computed on item 2 (using same rate schedule)	7,335
(6) Tax for second calendar quarter of 1971 (item 4 minus item 5)	14,715

PAR. 42. Section 25.2502–2 is amended to read as follows:

§ 25.2502–2 Donor primarily liable for tax.

Section 2502(d) provides that the donor shall pay the tax. If the donor dies before the tax is paid the amount of the tax is a debt due the United States from the decedent's estate and his executor or administrator is responsible for its payment out of the estate. (See § 25.6151–1 for the time and place for paying the tax.) If there is no duly qualified executor or administrator, the heirs, legatees, devisees, and distributees are liable for and required to pay the tax to the extent of the value of their inheritances, bequests, devises, or distributive shares of the donor's estate. If a husband and wife effectively signify consent, under section 2513, to have gifts made to a third party during any calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) considered as made one-half by each, the liability with respect to the gift tax of each spouse for that calendar quarter or calendar year is joint and several (see § 25.2513–4). As to the personal liability of the donee, see paragraph (b) of § 301.6324–1 of this chapter (Regulations on Procedure and Administration). As to the personal liability of the executor or administrator, see section 3467 of the Revised Statutes (31 U.S.C. 192), which reads as follows:

> Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

As used in such section 3467, the word "debt" includes a beneficiary's distributive share of an estate. Thus if an executor pays a debt due by the estate which is being administered by him or distributes any portion of the estate before there is paid all of the gift tax which he has a duty to pay, the executor is personally liable, to the extent of the payment or distribution, for so much of the gift tax as remains due and unpaid.

PAR. 43. Section 25.2503 is amended by revising section 2503 (a), (b) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2503 Statutory provisions; taxable gifts.

SEC. 2503. *Taxable gifts*—(a) *General definition.* The term "taxable gifts" means, in the case of gifts made after December 31, 1970, the total amount of gifts made during the calendar quarter, less the deductions provided in subchapter C (sec. 2521 and following). In the case of gifts made before January 1, 1971, such term means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C.

(b) *Exclusions from gifts.* In computing taxable gifts for the calendar quarter, in the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1971 and subsequent calendar years, $3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of the calendar year shall not, for purposes of subsection (a), be included in the total amount of gifts made during such quarter.

* * * * *

[Sec. 2503 as amended by sec. 102(a)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1839)]

PAR. 44. Section 25.2503-1 is amended to read as follows:

§ 25.2503-1 General definition of "taxable gifts" and of "total amount of gifts."

The term "taxable gifts" means the "total amount of gifts" made by the donor during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) less the deductions provided for in sections 2521, 2522, and 2523 (specific exemption, charitable, etc., gifts and the marital deduction, respectively). The "total amount of gifts" means the sum of the values of the gifts made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) less the amounts excludable under section 2503(b). See § 25.2503-2. The entire value of any gift of a future interest in property must be included in the "total amount of gifts" for the calendar quarter (calendar year in the case of gifts made before January 1, 1971) in which the gift is made. See § 25.2503-3. For the definition of "calendar quarter", see § 25.2502-1(c)(1).

PAR. 45. Section 25.2503-2 is amended to read as follows:

§ 25.2503-2 Exclusions from gifts.

(a) *Gifts made after December 31, 1970.* In computing taxable gifts for the calendar quarter, in the case of gifts (other than gifts of future interests in property) made to any person by the donor during any calendar quarter of the calendar year 1971 or any subsequent calendar year, $3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of any such calendar year shall not be included in the total amount of gifts made during such quarter. Thus, the first $3,000 of gifts made to any one donee during the calendar year 1971 or any calendar year thereafter, except gifts of future interests in property as defined in §§ 25.2503-3 and 25.2503-4, is excluded in determining the total amount of gifts for a calendar quarter. In the case of a gift in trust the beneficiary of the trust is the donee. The application of this paragraph may be illustrated by the following examples:

Example (1). A made a gift of $3,000 to B on January 8, 1971, and on April 20, 1971, gave B an additional gift of $10,000. A made no other gifts in 1971. The total amount of gifts made by A during the second quarter of 1971 is $10,000 because the $3,000 exclusion provided by section 2503(b) is first applied to the January 8th gift.

Example (2). A gave $2,000 to B on January 8, 1971, and on April 20, 1971, gave him $10,000. The total amount of gifts made by A during the second quarter of 1971 is $9,000 because only $2,000 of the $3,000 exclusion provided by section 2503(b) was applied against the January 8th gift; $1,000 was available to offset other gifts (except gifts of a future interest) made to B during 1971.

(b) *Gifts made before January 1, 1971.* The first $3,000 of gifts made to any one donee during the calendar year 1955, or 1970, or any calendar year intervening between calendar year 1955 and calendar year 1970, except gifts of future interests in property as defined in §§ 25.2503-3 and 25.2503-4, is excluded in determining the total amount of gifts for the calendar year. In the case of a gift in trust the beneficiary of the trust is the donee.

PAR. 46. Section 25.2503-3 is amended by revising paragraph (a) to read as follows:

§ 25.2503-3 Future interests in property.

(a) No part of the value of a gift of a future interest may be excluded in determining the total amount of gifts made during the calendar quarter (calendar year in the case of gifts made before January 1, 1971). For the definition of "calendar quarter" see § 25.2502-1(c)(1). "Future interest" is a legal term, and includes reversions, remainders, and other interests or estates, whether vested or contingent, and whether or not supported by a particular interest or estate, which are limited to commence in use, possession, or enjoyment at some future date or time. The term has no reference to such contractual rights as exist in a bond, note (though bearing no interest until maturity), or in a policy of life insurance, the obligations of which are to be discharged by payments in the future. But a future interest or interests in such contractual obligations may be created by the limitations contained in a trust or other instrument of transfer used in effecting a gift.

* * * * *

PAR. 47. Section 25.2504 is amended to read as follows:

§ 25.2504 Statutory provisions; taxable gifts for preceding years and quarters.

SEC. 2504. *Taxable gifts for preceding years and quarters*—(a) *In general.* In computing taxable gifts for preceding calendar years or calendar quarters for the purpose of computing the tax for any calendar quarter, there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the years or calendar quarters in which the transfers were made and there shall be allowed such deductions as were provided for under such laws; except that the specific exemption in the amount, if any, allowable under section 2521 shall be applied in all computations in respect of previous calendar years or calendar quarters for the purpose of computing the tax for any calendar year or calendar quarter.

(b) *Exclusions from gifts for preceding years and quarters.* In the case of gifts made to any person by the donor during preceding calendar years and calendar quarters, the amount excluded, if any, by the provisions of gift tax laws applicable to the years and calendar quarters in which the gifts were made shall not, for purposes of subsection (a), be included in the total amount of the gifts made during such years and calendar quarters.

(c) *Valuation of certain gifts for preceding calendar years and quarters.* If the time has expired within which a tax may be assessed under this chapter or under corresponding provisions of prior laws on the transfer of property by gift made during a preceding calendar year or calendar quarter, as defined in section 2502(c), and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar year or calendar quarter, the value of such gift made in such preceding calendar year or calendar quarter shall, for purposes of computing the tax under this chapter for any calendar quarter, be the value of such gift which was used in computing the tax for the last preceding calendar year or calendar quarter for which a tax under this chapter or under corresponding provisions of prior laws was assessed or paid.

(d) *Net gifts.* The term "net gifts" as used in corresponding provisions of prior laws shall be read as "taxable gifts" for purposes of this chapter.

[Sec. 2504 as amended by sec. 102(a)(4), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1839)]

PAR. 48. Section 25.2504-1 is amended to read as follows:

§ 20.2504-1 Taxable gifts for preceding years and quarters.

(a)(1) With respect to gifts made after December 31, 1970, in order to determine the correct gift tax liability for any calendar quarter, it is necessary to ascertain the correct amount, if any, of the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters. See paragraph (a)(1)(ii) of § 25.2502-1. For definitions of "calendar quarter" and "preceding calendar years and calendar quarters" see § 25.2502-1(c). The term "aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters" means the correct aggregate of such gifts, not necessarily that returned for those calendar years or calendar quarters and in respect of which tax was paid. All transfers that constituted gifts in prior calendar years and calendar quarters under the laws, including the provisions of law relating to exclusions from gifts, in effect at the time the transfers were made are included in determining the amount of taxable gifts for preceding calendar years and calendar quarters. The deductions other than for the specific exemption (see paragraph (b) of this section) allowed by the laws in effect at the time the transfers were made also are taken into account in determining the aggregate sum of the taxable gifts for preceding calendar years and calendar quarters. (The allowable exclusion from a gift was $5,000 for years before 1939, $4,000 for the calendar years 1939 through 1942, and $3,000 thereafter.)

(2) With respect to gifts made before January 1, 1971, in order to determine the correct gift tax liability for the calendar year 1955, or 1970, or any calendar year intervening between calendar year

1955 and calendar year 1970, it is necessary to ascertain the correct amount, if any, of the aggregate sum of the taxable gifts for each of the preceding calendar years. See paragraph (a)(2)(ii) of § 25.2502-1. The term "aggregate sum of the taxable gifts for each of the preceding calendar years" means the correct aggregate of such gifts, not necessarily that returned for those years and in respect of which tax was paid. All transfers that constituted gifts in prior calendar years under the laws, including the provisions of law relating to exclusions from gifts, in effect at the time the transfers were made are included in determining the amount of taxable gifts for preceding years. The deductions other than for the specific exemption (see paragraph (b) of this section) allowed by the laws in effect at the time the transfers were made also are taken into account in determining the aggregate sum of the taxable gifts for preceding years. (The allowable exclusion from a gift was $5,000 for years before 1939, $4,000 for the calendar years 1939 through 1942, and $3,000 thereafter.)

(b) In determining the aggregate sum of the taxable gifts for either (1) the preceding calendar years and calendar quarters (under paragraph (a)(1) of this section) or, (2) the preceding calendar years (under paragraph (a)(2) of this section), the total of the amounts allowed as deductions for the specific exemption, under section 2521 and the corresponding provisions of prior laws, shall not exceed $30,000. Thus, if the only prior gifts by a donor were made in 1940 and 1941 (at which time the specific exemption allowable was $40,000), and if in his returns for those years the donor claimed deductions totaling $40,000 for the specific exemption and reported taxable gifts totaling $110,000, then in determining the aggregate sum of the taxable gifts for either the preceding calendar years and calendar quarters or the preceding calendar years, the deductions for the specific exemption cannot exceed $30,000, and the donor's taxable gifts for such periods will be $120,000 (instead of the $110,000 reported on his returns). (The allowable deduction for the specific exemption was $50,000 for calendar years before 1936, $40,000 for calendar years 1936 through 1942, and $30,000 thereafter.)

(c) If the donor and his spouse consented to have gifts made to third parties considered as made one-half by each spouse, pursuant to the provisions of section 2513 or section 1000(f) of the Internal Revenue Code of 1939 (which corresponds to section 2513), these provisions shall be taken into account in determining the aggregate sum of the taxable gifts for either (1) the preceding calendar years and calendar quarters (under paragraph (a)(1) of this section) or, (2) the preceding calendar years (under paragraph (a)(2) of this section).

(d) If interpretations of the gift tax law in prior calendar years or calendar quarters resulted in the erroneous inclusion of property for gift tax purposes that should have been excluded, or the erroneous exclusion of property that should have been included, adjustments must be made in order to arrive at the correct aggregate of taxable gifts for either (1) the preceding calendar years and calendar quarters (under paragraph (a)(1) of this section) or, (2) the preceding calendar years (under paragraph (a)(2) of this section). However, see section 1000 (e) and (g) of the 1939 Code relating to certain discretionary trusts and reciprocal trusts.

PAR. 49. Section 25.2504-2 is amended to read as follows:

§ 25.2504-2 Valuation of certain gifts for preceding calendar years and quarters.

Section 2504(c) provides that if the valuation of a transfer for gift tax purposes with respect to a gift made in a preceding calendar year or calendar quarter, as defined in § 25.2502-1(c), is at issue, and if the statutory period within which an assessment may be made with respect to the gift has expired and a tax has been actually assessed or paid for such prior calendar year or calendar quarter, then the value of the gift, for purposes of arriving at the correct amount of the taxable gifts for either (1) preceding calendar years and calendar quarters (under § 25.2504-1(a)(1)) or, (2) preceding calendar years (under § 25.2504-1(a)(2)), is the value that was used in computing the tax for the last preceding calendar year or calendar quarter for which a tax was assessed or paid under chapter 12 of the Internal Revenue Code of 1954 or the corresponding provisions of prior laws. However, this rule will not prevent an adjustment in value where no tax was paid or assessed for the prior calendar year or calendar quarter. Furthermore, this rule does not apply to adjustments involving issues other than valuation. See paragraph (d) of § 25.2504-1.

PAR. 50. Section 25.2511-1 is amended by revising paragraphs (b) and (d) to read as follows:

§ 25.2511-1 Transfers in general.

* * * * *

(b) In the case of a nonresident not a citizen who was not engaged in business in the United States (see § 25.2501-1) during the calendar quarter (calendar year with respect to gifts made before January 1, 1971), the tax is imposed only if the gift consisted of real estate or tangible personal property situated within the United States at the time of transfer. See §§ 25.2501-1 and 25.2511-3. For the definition of calendar quarter see § 25.2502-1(c)(1).

* * * * *

(d) If a joint income tax return is filed by a husband and wife for a taxable year, the payment by one spouse of all or part of the income tax liability for such year is not treated as resulting in a transfer that is subject to gift tax. The same rule is applicable to the payment of gift tax for a calendar quarter (or calendar year) in the case of a husband and wife who have consented to have the gifts made considered as made half by each of them in accordance with the provisions of section 2513. For the definition of calendar quarter see § 25.2502-1(c)(1).

* * * * *

PAR. 51. Section 25.2511-2 is amended by revising paragraphs (f) and (j) to read as follows:

§ 25.2511-2 Cessation of donor's dominion and control.

* * * * *

(f) The relinquishment or termination of a power to change the beneficiaries of transferred property, occurring otherwise than by the death of the donor (the statute being confined to transfers by living donors), is regarded as the event that completes the gift and causes the tax to apply. For example, if A transfers property in trust for the benefit of B and C but reserves the power as trustee to change the proportionate interests of B and C, and if A thereafter has another person appointed trustee in place of himself, such later relinquishment of the power by A to the new trustee completes the gift of the transferred property, whether or not the new trustee has a substantial adverse interest. The receipt of income or of other enjoyment of the transferred property by the transferee or by the beneficiary (other than by the donor himself) during the interim between the making of the initial transfer and the relinquishment or termination of the power operates to free such income or other enjoyment from the power, and constitutes a gift of such income or of such other enjoyment taxable as of the calendar quarter or calendar year of its receipt. See § 25.2502-1(c)(1) for the definition of calendar quarter. If property is transferred in trust to pay the income to A for life with remainder to B, powers to distribute corpus to A, and to withhold income from A for future distribution to B, are powers to change the beneficiaries of the transferred property.

* * * * *

(j) If the donor contends that a power is of such nature as to render the gift incomplete, and hence not subject to the tax as of the calendar quarter or calendar year of the initial transfer, the transaction shall be disclosed in the return and evidence showing all relevant facts, including a copy of the instrument of transfer, should be submitted. See § 25.2502-1(c)(1) for the definition of calendar quarter.

PAR. 52. Section 25.2511-3 is amended by revising paragraphs (a)(1), (a)(2), and (b)(2) to read as follows:

§ 25.2511-3 Transfers by nonresidents not citizens.

(a) *In general.* * * *

(1) If the nonresident not a citizen of the United States was not engaged in business in the United States during the calendar quarter or calendar year in which the gift was made, the tax applies only to the transfer of real property and tangible personal property situated in the United States. See § 25.2502-1(c)(1) for the definition of calendar quarter.

(2) If the nonresident not a citizen of the United States was engaged in business in the United States during the calendar quarter or calendar year in which the gift was made, the tax applies to the transfer of all property (whether real or personal, tangible or intangible) situated in the United States. See § 25.2502-1 (c)(1) for the definition of calendar quarter.

(b) *Situs of property.* * * *

(2) Shares of stock owned and held by a nonresident not a citizen of the United States constitute property within the United States if issued by a domestic corporation, irrespective of where the certificates are physically located. However, since a share of stock is intangible property, the transfer by gift by a nonresident not a citizen of the United States of a share of stock issued by a domestic corporation would, under the provisions of paragraph (a) of this section, be subject to the tax only if the donor was engaged in business in the United States during the calendar quarter or calendar year in which the gift was made. See § 25.2502-1(c)(1) for the definition of calendar quarter.

* * * * *

PAR. 53. Section 25.2512 is amended by revising section 2512(b) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2512 Statutory provisions; valuation of gifts.

SEC. 2512. *Valuation of gifts.*

* * * * *

(b) Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration shall be deemed a gift, and shall be included in computing the amount of gifts made during the calendar quarter.

[Sec. 2512 as amended by sec. 102(b)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1840)]

PAR. 54. Section 25.2513 is amended by revising section 2513 (a), (b)(2), (c)(1), and (d), and by adding a historical note. These revised and added provisions read as follows:

§ 25.2513 Statutory provisions; gift by husband or wife to third party; considered as made one-half by each.

SEC. 2513. *Gift by husband or wife to third party*—(a) *Considered as made one-half by each*—(1) *In general.* A gift made by one spouse to any person other than his spouse shall, for the purposes of this chapter, be considered as made one-half by him and one-half by his spouse, but only if at the time of the gift each spouse is a citizen or resident of the United States. This paragraph shall not apply with respect to a gift by a spouse of an interest in property if he creates in his spouse a general power of appointment, as defined in section 2514(c), over such interest. For purposes of this section, an individual shall be considered as the spouse of another individual only if he is married to such individual at the time of the gift and does not remarry during the remainder of the calendar quarter.

(2) *Consent of both spouses.* Paragraph (1) shall apply only if both spouses have signified (under the regulations provided for in subsection (b)) their consent to the application of paragraph (1) in the case of all such gifts made during the calendar quarter by either while married to the other.

(b) *Manner and time of signifying consent.* * * *

(2) *Time.* Such consent may be so signified at any time after the close of the calendar quarter in which the gift was made, subject to the following limitations—

(A) The consent may not be signified after the 15th day of the second month following the close of such calendar quarter, unless before such 15th day no return has been filed for such calendar quarter by either spouse, in which case the consent may not be signified after a return for such calendar quarter is filed by either spouse;

(B) The consent may not be signified after a notice of deficiency with respect to the tax for such calendar quarter has been sent to either spouse in accordance with section 6212(a).

(c) *Revocation of consent.* Revocation of a consent previously signified shall be made in such manner as is provided under regulations prescribed by the Secretary or his delegate, but the right to revoke a consent previously signified with respect to a calendar quarter—

(1) Shall not exist after the 15th day of the second month following the close of such calendar quarter if the consent was signified on or before such 15th day; and

* * * * *

(d) *Joint and several liability for tax.* If the consent required by subsection (a)(2) is signified with respect to a gift made in any calendar quarter, the liability with respect to the entire tax imposed by this chapter of each spouse for such calendar quarter shall be joint and several.

[Sec. 2513 as amended by sec. 102(b)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1840)]

PAR. 55. Section 25.2513-1 is amended by revising paragraph (a), by revising subparagraphs (1), (2), and (5) of paragraph (b), by revising paragraph (c), and by revising paragraph (d). These revised provisions read as follows:

§ 25.2513-1 Gifts by husband or wife to third party considered as made one-half by each.

(a) A gift made by one spouse to a person other than his (or her) spouse may, for the purpose of the gift tax, be considered as made one-half by his spouse, but only if at the time of the gift each spouse was a citizen or resident of the United States. For purposes of this section, an individual is to be considered as the spouse of another individual only if he was married to such individual at the time of the gift and does not remarry during the remainder of the calendar quarter (calendar year with respect to gifts made before January 1, 1971). For the definition of calendar quarter see § 25.2502-1(c)(1).

(b) The provisions of this section will apply to gifts made during a particular calendar quarter (calendar year with respect to gifts made before January 1, 1971) only if both spouses signify their consent to treat all gifts made to third parties during that calendar quarter (or calendar year) by both spouses while married to each other as having been made one-half by each spouse. As to the manner and time for signifying consent, see § 25.2513-2. Such consent, if signified with respect to any calendar quarter (or calendar year), is effective with respect to all gifts made to third parties during such calendar quarter or calendar year except as follows:

(1) If the consenting spouses were not married to each other during a portion of the calendar quarter or calendar year, the consent is not effective with respect to any gifts made during such portion of the calendar quarter or calendar year. Where the consent is signified by an executor or administrator of a deceased spouse, the consent is not effective with respect to gifts made by the surviving spouse during the portion of the calendar quarter or calendar year that his spouse was deceased.

(2) If either spouse was a nonresident not a citizen of the United States during any portion of the calendar quarter or calendar year, the consent is not effective with respect to any gift made during that portion of the calendar quarter or calendar year.

* * * * *

(5) The consent applies alike to gifts made by one spouse alone and to gifts made partly by each spouse, provided such gifts were to third parties and do not fall within any of the exceptions set forth in subparagraphs (1) through (4) of this paragraph. The consent may not be applied only to a portion of the property interest constituting such gifts. For example, a wife may not treat gifts made by her spouse from his separate property to third parties as having been made one-half by her if her spouse does not consent to treat gifts made by her to third parties during the same calendar quarter or calendar year as having been made one-half by him. If the consent is effectively signified on either the husband's return or the wife's return, all gifts made by the spouses to third parties (except as described in subparagraphs (1) through (4) of this paragraph), during the calendar quarter or calendar year will be treated as having been made one-half by each spouse.

(c) If a husband and wife consent to have the gifts made to third party donees considered as made one-half by each spouse, and only one spouse makes gifts during the calendar quarter (calendar year with respect to gifts made before January 1, 1971), the other spouse is not required to file a gift tax return provided: (1) The total value of the gifts made to each third party donee since the beginning of the calendar year is not in excess of $6,000, and (2) no portion of the property transferred constitutes a gift of a future interest. If a transfer made by either spouse during the calendar quarter (or calendar year) to a third party represents a gift of a future interest in property and the spouses consent to have the gifts considered as made one-half by each, a gift tax return for such calendar quarter (or calendar year) must be filed by each spouse regardless of the value of the transfer. (See § 25.2503-3 for the definition of a future interest.)

(d) The following examples illustrate the application of this section relating to the requirements for the filing of a return, assuming that a consent was effectively signified:

(1) A husband made gifts valued at $7,000 during the second quarter of 1971 to a third party and his wife made no gifts during this time. Each spouse is required to file a return for the second calendar quarter of 1971.

(2) A husband made gifts valued at $5,000 to each of two third parties during the year 1970 and his wife made no gifts. Only the husband is required to file a return. (See § 25.6019-2.)

(3) During the third quarter of 1971, a husband made gifts valued at $5,000 to a third party, and his wife made gifts valued at $2,000 to the same third party. Each spouse is required to file a return for the third calendar quarter of 1971.

(4) A husband made gifts valued at $5,000 to a third party and his wife made gifts valued at $3,000 to another third party during the year 1970. Only the husband is required to file a return for the calendar year 1970. (See § 25.6019-2.)

(5) A husband made gifts valued at $2,000 during the first quarter of 1971 to third parties which represented gifts of future interests in property (see § 25.2503-3), and his wife made no gifts during such calendar quarter. Each spouse is required to file a return for the first calendar quarter of 1971.

PAR. 56. Section 25.2513-2 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 25.2513-2 Manner and time of signifying consent.

(a) (1) Consent to the application of the provisions of section 2513 with respect to a calendar quarter (a calendar year with respect to gifts made before January 1, 1971) shall, in order to be effective, be signified by both spouses. If both spouses file gift tax returns within the time for signifying consent, it is sufficient if—

(i) The consent of the husband is signified on the wife's return, and the consent of the wife is signified on the husband's return;

(ii) The consent of each spouse is signified on his own return; or

(iii) The consent of both spouses is signified on one of the returns.

If only one spouse files a gift tax return within the time provided for signifying consent, the consent of both spouses shall be signified on that return. However, wherever possible, the notice of the consent is to be shown on both returns and it is preferred that the notice be executed in the manner described in subdivision (i) of this subparagraph. The consent may be revoked only as provided in § 25.2513-3. If one spouse files more than one gift tax return for a calendar quarter (or a calendar year) on or before the due date of the return, the last return so filed shall, for the purpose of determining whether a consent has been signified, be considered as the return. (See § 25.6075-1 for the due date of a gift tax return.)

(2) Subject to the limitations of paragraph (b) of this section, the consent signified on a return filed for a calendar quarter will be effective for a previous calendar quarter of the same calendar year for which no return was filed because the gifts made during such previous calendar quarter did not exceed the annual exclusion provided by section 2503(b), if the gifts in such previous calendar quarter are listed on that return. Thus, for example, if A gave $2,000 to his son in the first quarter of 1972 (and filed no return because of section 2503 (b)) and gave a further $4,000 to such son in the last quarter of the year, A and his spouse could signify consent to the application of section 2513 on the return filed for the fourth quarter and have it apply to the first quarter as well, provided that the $2,000 gift is listed on such return.

(b) (1) With respect to gifts made after December 31, 1970, the consent may be signified at any time following the close of the calendar quarter in which the gift was made, subject to the following limitations:

(i) The consent may not be signified after the 15th day of the second month following the close of such calendar quarter, unless before such 15th day, no return has been filed for such calendar quarter by either spouse, in which case the consent may not be signified after a return for such calendar quarter is filed by either spouse; and

(ii) The consent may not be signified after a notice of deficiency with respect to the tax for such calendar quarter has been sent to either spouse in accordance with section 6212(a).

(2) With respect to gifts made before January 1, 1971, the consent may be signified at any time following the close of the calendar year, subject to the following limitations:

(i) The consent may not be signified after the 15th day of April following the close of the calendar year, unless before such 15th day no return has been filed for the year by either spouse, in which case the consent may not be signified after a return for the year is filed by either spouse; and

(ii) The consent may not be signified for a calendar year after a notice of deficiency in gift tax for that year has been sent to either spouse in accordance with the provisions of section 6212(a).

* * * * *

(d) If the donor and spouse consent to the application of section 2513, the return or returns for the calendar quarter (calendar year with respect to gifts made before January 1, 1971) must set forth, to the extent provided thereon, information relative to the transfers made by each spouse.

PAR. 57. Section 25.2513-3 is amended to read as follows:

§ 25.2513-3 Revocation of consent.

(a) (1) With respect to gifts made after December 31, 1970, if the consent to the application of the provisions of section 2513 for a calendar quarter was effectively signified on or before the 15th day of the second month following the close of such calendar quarter, either spouse may revoke the consent by filing in duplicate a signed statement of revocation, but only if the statement is filed on or before such 15th day of the second month following the close of such calendar quarter. Therefore, a consent that was not effectively signified until after the 15th day of the second month following the close of the calendar quarter to which it applies may not be revoked. (See § 25.2502-1(c)(1) for the definition of calendar quarter.)

(2) With respect to gifts made before January 1, 1971, if the consent to the application of the provisions of section 2513 for a calendar year was effectively signified on or before the 15th day of April following the close of the calendar year, either spouse may revoke the consent by filing in duplicate a signed statement of revocation, but only if the statement is filed on or before such 15th day of April. Therefore, a consent that was not effectively signified until after the 15th day of April following the close of the calendar year to which it applies may not be revoked.

(b) Except as provided in paragraph (b) of § 301.6091-1 of this chapter (relating to hand-carried documents), the statement referred to in paragraph (a) of this section shall be filed with the internal revenue officer with whom the gift tax return is required to be filed, or with whom the gift tax return would be required to be filed if a return were required.

PAR. 58. Section 25.2513-4 is amended to read as follows:

§ 25.2513-4 Joint and several liability for tax.

If consent to the application of the provisions of section 2513 is signified as provided in § 25.2513-2, and not revoked as provided in § 25.2513-3, the liability with respect to the entire gift tax of each spouse for such calendar quarter (calendar year with respect to gifts made before January 1, 1971) is joint and several. See paragraph (d) of § 25.2511-1. For the definition of calendar quarter see § 25.2502-1(c)(1).

PAR. 59. Section 25.2514-3 is amended by revising paragraph (c)(2) to read as follows:

§ 25.2514-3 Powers of appointment created after October 21, 1942.

* * * * *

(c) *Partial releases, lapses, and disclaimers of general powers created after October 21, 1942.* * * *

(2) If a general power of appointment created after October 21, 1942, was partially released prior to June 1, 1951, so that it no longer represented a general power of appointment, as defined in paragraph (c) of § 25.2514-1, the subsequent exercise, release, or lapse of the partially released power at any time thereafter will not constitute the exercise or release of a general power of appoint-

ment. For example, assume that A created a trust in 1943 under which B possessed a general power of appointment. By an instrument executed in 1948 such general power of appointment was reduced in scope by B to an excepted power. The inter vivos exercise in 1955, or in any calendar year or calendar quarter thereafter, of such excepted power is not considered an exercise or release of a general power of appointment for purposes of the gift tax. For the definition of calendar quarter see § 25.2502-1(c)(1).

* * * * *

PAR. 60. Section 25.2515 is amended by revising section 2515(c) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2515 Statutory provisions; tenancies by the entirety.

SEC. 2515. *Tenancies by the entirety*—* * *

(c) *Exercise of election.* The election provided by subsection (a) shall be exercised by including such creation of a tenancy by the entirety or additions made to the value thereof as a transfer by gift, to the extent such transfer constitutes a gift, determined without regard to this section, in the gift tax return of the donor for the calendar quarter in which such tenancy by the entirety was created or additions made to the value thereof, filed within the time prescribed by law, irrespective of whether or not the gift exceeds the exclusion provided by section 2503(b).

* * * * *

[Sec. 2515 as amended by sec. 102(b)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 61. Section 25.2515-1 is amended by revising paragraph (b), and by revising subparagraphs (1), (2)(ii)(*b*), and (3) of paragraph (d). These revised paragraphs read as follows:

§ 25.2515-1 Tenancies by the entirety; in general.

* * * * *

(b) *Gift upon creation of tenancy by the entirety; in general.* During calendar years prior to 1955 the contribution made by a husband or wife in the creation of a tenancy by the entirety constituted a gift to the extent that the consideration furnished by either spouse exceeded the value of the rights retained by that spouse. The contribution made by either or both spouses in the creation of such a tenancy during the calendar year 1955, any calendar year beginning before January 1, 1971, or any calendar quarter beginning after December 31, 1970, is not deemed a gift by either spouse, regardless of the proportion of the total consideration furnished by either spouse, unless the donor spouse elects (see § 25.2515-2) under section 2515(c) to treat such transaction as a gift in the calendar quarter or calendar year in which the transaction is effected. See § 25.2502-1(c)(1) for the definition of calendar quarter. However, there is a gift upon the termination of such a tenancy, other than by the death of a spouse, if the proceeds received by one spouse on termination of the tenancy are larger than the proceeds allocable to the consideration furnished by that spouse to the tenancy. The creation of a tenancy by the entirety takes place if (1) a husband or his wife purchases property and causes the title thereto to be conveyed to themselves as tenants by the entirety, (2) both join in such a purchase, or (3) either or both cause to be created such a tenancy in property already owned by either or both of them. The rule prescribed herein with respect to the creation of a tenancy by the entirety applies also to contributions made in the making of additions to the value of such a tenancy (in the form of improvements, reductions in the indebtedness, or otherwise), regardless of the proportion of the consideration furnished by each spouse. See § 25.2516-1 for transfers made pursuant to a property settlement agreement incident to divorce.

* * * * *

(d) *Gift upon termination of tenancy by the entirety*—(1) *In general.* Upon the termination of the tenancy, whether created before, during, or subsequent to the calendar year 1955, a gift may result, depending upon the disposition made of the proceeds of the termination (whether the proceeds be in the form of cash, property, or interests in property). A gift may result notwithstanding the fact that the contribution of either spouse to the tenancy was treated as a gift. See § 25.2515-3 for the method of determining the amount of any gift that may result from the termination of the tenancy in those cases in which no portion of the consideration contributed was treated as a gift by the spouses in the calendar quarter or calendar year in which it was furnished. See § 25.2515-4 for the method of determining the amount of any gift that may result from the termination of the tenancy in those cases in which all or a portion of the consideration contributed was treated as constituting a gift by the spouses in the calendar quarter or calendar year in which it was furnished. See § 25.2515-2 for the procedure to be followed by a donor who elects under section 2515(c) to treat the creation of a tenancy by the entirety (or the making of additions to its value) as a transfer subject to the gift tax in the calendar quarter (calendar year with respect to such transfers made before January 1, 1971) in which the transfer is made, and for the method of determining the amount of the gift. See § 25.2502-1(c)(1) for the definition of calendar quarter.

(2) *Termination.* * * *

(ii) *Exchange or reinvestment.* * * *

(*b*) On or before the due date for the filing of a gift tax return for the calendar quarter or calendar year (see § 25.-6075-1 for the time for filing gift tax returns) in which the property held as tenants by the entirety was sold, exchanged, or otherwise disposed of, the spouses enter into a binding contract for the purchase of other real property; and

* * * * *

(3) *Proceeds of termination.* (i) The proceeds of termination may be received by a spouse in the form of money, property, or an interest in property. Where the proceeds are received in the form of property (other than money) or an interest in property, the value of the proceeds received by that spouse is the fair market value, on the date of termination of the tenancy by the entirety, of the property or interest received. Thus, if a tenancy by the entirety is terminated so that thereafter each spouse owns an undivided half interest in the property as tenant in common, the value of the proceeds of termination received by each spouse is one-half the value of the property at the time of the termination of the tenancy by the entirety. If under local law one spouse, without the consent of the other, can bring about a severance of his or her interest in a tenancy by the entirety and does so by making a gift of his or her interest to a third party, that spouse is considered as having received proceeds of termination in the amount of the fair market value, at the time of the termination, of his severable interest determined in accordance with the rules prescribed in § 25.2512-5. He has, in addition, made a gift to the third party of the fair market value of the interest conveyed to the third party. In such a case, the other spouse also is considered as having received as proceeds of termination the fair market value, at the time of termination, of the interest which she thereafter holds in the property as tenant in common with the third party. However, since section 2515(b) contemplates that the spouses may divide the proceeds of termination in some proportion other than that represented by the values of their respective legal interests in the property, if both spouses join together in making a gift to a third party of property held by them as tenants by the entirety, the value of the proceeds of termination which will be treated as received by each is the amount which each reports (on his or her gift tax return filed for the calendar quarter or calendar year in which the termination occurs) as the value of his or her gift to the third party. This amount is the amount which each reports without regard to whether the spouses elect under section 2513 to treat the gifts as made one-half by each. For example, assume that H and W (his wife) hold real property as tenants by the entirety; that in the first calendar quarter of 1972, when the property has a fair market value of $60,000, they give it to their son; and that on their gift tax returns for such calendar quarter, H reports himself as having made a gift to the son of $36,000 and W reports herself as having made a gift to the son of $24,000. Under these circumstances, H is considered as having received proceeds of termination valued at $36,000, and W is considered as having received proceeds of termination valued at $24,000.

* * * * *

PAR. 62. Section 25.2515-2 is amended by revising paragraph (a) to read as follows:

§ 25.2515-2 Tenancies by the entirety; transfers treated as gifts; manner of election and valuation.

(a) The election to treat the creation of a tenancy by the entirety in real property, or additions made to its value, as constituting a gift in the calendar quarter or calendar year in which effected, shall be exercised by including the value of such gifts in the gift tax return of the donor for such calendar quarter or calendar year in which the tenancy was created, or the additions in value were made to the property. See section 6019 and the regulations thereunder. The election may be exercised only in a return filed within the time prescribed by law, or before the expiration of any extension of time granted pursuant to law for the filing of the return. See section 6075 for the time for filing the gift tax return and section 6081 for cxtensions of time for filing the return, together with the regulations thereunder. In order to make the election, a gift tax return must be filed for the calendar quarter or calendar year in which the tenancy was created, or additions in value thereto made, even though the value of the gift involved does not exceed the amount of the exclusion provided by section 2503(b). See § 25.2502-1(c)(1) for the definition of calendar quarter.

* * * * *

PAR. 63. Section 25.2515-3 is amended by revising paragraph (b) to read as follows:

§ 25.2515-3 Termination of tenancy by the entirety; cases in which entire value of gift is determined under section 2515(b).

* * * * *

(b) In computing the value of the gift under the circumstances described in paragraph (a) of this section, it is first necessary to determine the spouse's share of the proceeds attributable to the consideration furnished by him. This share is computed by multiplying the total value of the proceeds of the termination by a fraction, the numerator of which is the total consideration furnished by the donor spouse and the denominator of which is the total consideration furnished by both spouses. From this amount there is subtracted the value of the proceeds of termination received by the donor spouse. The amount remaining is the value of the gift. In arriving at the "total consideration furnished by the donor spouse" and the "total consideration furnished by both spouses", for purposes of the computation provided for in this paragraph, the consideration furnished (see paragraph (c) of § 25.2515-1) is not reduced by any amounts which otherwise would have been excludable under section 2503(b) in determining the amounts of taxable gifts for calendar quarters or calendar years in which the consideration was furnished. (See § 25.2502-1(c)(1) for the definition of calendar quarter.) As an example assume that in 1955, real property was purchased for $30,000, the husband and wife each contributing $12,000 and the remaining $6,000 being obtained through a mortgage on the property. In each of the years 1956 and 1957, the husband paid $3,000 on the principal of the indebtedness, but did not disclose the value of these transfers on his gift tax returns for those years. The total consideration furnished by the husband is $18,000, the total consideration furnished by the wife is $12,000, and the total consideration furnished by both spouses is $30,000.

* * * * *

PAR. 64. Section 25.2515-4 is amended by revising paragraph (a) and so much of paragraph (c) as precedes subparagraph (1) thereof to read as follows:

§ 25.2515-4 Termination of tenancy by entirety; cases in which none, or a portion only, of value of gift is determined under section 2515(b).

(a) *In general.* The rules provided in section 2515(b) (see § 25.2515-3) are not applied in determining whether a gift has been made at the termination of a tenancy to the extent that the consideration furnished for the creation of the tenancy was treated as a gift or if the consideration for the creation of the tenancy was furnished by a third party. Consideration furnished for the creation of the tenancy was treated as a gift if it was furnished either (1) during calendar years prior to 1955, or (2) during the calendar year 1955 and subsequent calendar years and calendar quarters and the donor spouse exercised the election to treat the furnishing of consideration as a gift. (For the definition of calendar quarter see § 25.2502-1(c)(1).) See paragraph (b) of this section for the manner of computing the value of gifts resulting from the termination of the tenancy under these circumstances. See paragraph (c) of this section for the rules to be applied where part of the total consideration for the creation of the tenancy and additions to the value thereof was not treated as a gift and part either was treated as a gift or was furnished by a third party.

* * * * *

(c) *Valuation of gift where both types of consideration are involved.* If the consideration furnished consists in part of the type described in paragraph (a) of § 25.2515-3 (consideration furnished by the spouses after 1954, and not treated as a gift in the calendar quarter or calendar year in which it was furnished) and in part of the type described in paragraph (a) of this section (consideration furnished by the spouses and treated as a gift or furnished by a third party), the amount of the gift is determined as follows:

* * * * *

PAR. 65. Section 25.2516-1 is amended by revising paragraph (b) to read as follows:

§ 25.2516-1 Certain property settlements.

* * * * *

(b) See paragraph (b) of § 25.6019-3 for the circumstances under which information relating to property settlements must be disclosed on the transferor's gift tax return for the calendar quarter (calendar year with respect to gifts made before January 1, 1971) in which the agreement becomes effective. See § 25.2502-1(c)(1) for the definition of calendar quarter.

PAR. 66. Section 25.2517-1 is amended by revising so much of paragraph (a)(1) as follows subdivision (iii) to read as follows:

§ 25.2517-1 Employee's annuities.

(a) *In general.* (1) * * *

The value of the gift is the value, on the date of the gift, of the survivor annuity or other payment, computed in accordance with the principles set forth in §§ 25.2512-1, 25.2512-5, and 25.2512-6. It should be noted that such a gift is a gift of a future interest within the contemplation of § 25.2503-3 and no part thereof may be excluded in determining the total amount of gifts made during the calendar quarter (calendar year with respect to gifts made before January 1, 1971). See § 25.2502-1(c)(1) for the definition of calendar quarter.

* * * * *

PAR. 67. Section 25.2521 is amended to read as follows:

§ 25.2521 Statutory provisions; specific exemption.

SEC. 2521. *Specific exemption.* In computing taxable gifts for a calendar quarter, there shall be allowed as a deduction in the case of a citizen or resident an exemption of $30,000, less the aggregate of the amounts claimed and allowed as a specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years and calendar quarters intervening between that calendar year and the calendar quarter for which the tax is being computed under the laws applicable to such years or calendar quarters.

[Sec. 2521 as amended by sec. 102(c)(1), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 68. Section 25.2521-1 is amended to read as follows:

§ 25.2521-1 Specific exemption.

(a) In determining the amount of taxable gifts for the calendar quarter (calendar year with respect to gifts made before January 1, 1971) there may be deducted, if the donor was a resident or citizen of the United States at the time the gifts were made, a specific exemption of $30,000, less the sum of the amounts claimed and allowed as an exemption in prior calendar quarters or calendar years. The exemption, at the option of the donor, may be taken in the full amount of $30,000 in a single calendar quarter or calendar year, or be spread over a period of time in such amounts as the donor sees fit, but after the limit has been reached no further exemption is allowable. Except as otherwise provided in a tax convention between the United States and another country, a donor who was a nonresident not a citizen of the United States at the time the gift or gifts were made is not entitled to this exemption. For the definition of calendar quarter see § 25.2502-1(c)(1).

(b) No part of a donor's lifetime specific exemption of $30,000 may be deducted from the value of a gift attributable to his spouse where a husband and wife consent, under the provisions of section 2513, to have the gifts made during a calendar quarter or calendar year considered as made one-half by each of them. The "gift-splitting" provisions of section 2513 do not authorize the filing of a joint gift tax return nor permit a donor to claim any of his spouse's specific exemption. For example, if a husband has no specific exemption remaining available, but his wife does, and the husband makes a gift to which his wife consents under the provisions of section 2513, the specific exemption remaining available may be claimed only on the return of the wife with respect to one-half of the gift. The husband may not claim any specific exemption since he has none available.

(c) (1) With respect to gifts made after December 31, 1970, the amount by which the specific exemption claimed and allowed in gift tax returns for prior calendar quarters and calendar years exceeds $30,000 is includible in determining the aggregate sum of the taxable gifts for preceding calendar years and calendar quarters. See paragraph (b) of § 25.2504-1.

(2) With respect to gifts made before January 1, 1971, the amount by which the specific exemption claimed and allowed in gift tax returns for prior calendar years exceeds $30,000 is includible in determining the aggregate sum of the taxable gifts for preceding calendar years. See paragraph (b) of § 25.2504-1.

PAR. 69. Section 25.2522(a) is amended by revising so much of section 2522(a) as precedes paragraph (1) thereof, by revising section 2522(a)(2), and by adding a historical note. These revised and added provisions read as follows:

§ 25.2522(a) Statutory provisions; charitable and similar gifts; citizens or residents.

SEC. 2522. *Charitable and similar gifts*—(a) *Citizens or residents*. In computing taxable gifts for the calendar quarter, there shall be allowed as a deduction in the case of a citizen or resident the amount of all gifts made during such quarter to or for the use of—

* * * * *

(2) A corporation, or trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

* * * * *

[Sec. 2522(a) as amended by sec. 201(d)(4), Tax Reform Act 1969 (83 Stat. 561); sec. 102(c)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 70. Section 25.2522(a)-1 is amended by revising so much of paragraph (a) as precedes subparagraph (1) thereof to read as follows:

§ 25.2522(a)-1 Charitable and similar gifts; citizens or residents.

(a) In determining the amount of taxable gifts for the calendar quarter as defined in § 25.2502-1(c)(1) (calendar year with respect to gifts made before January 1, 1971) there may be deducted, in the case of a donor who was a citizen or resident of the United States at the time the gifts were made, all gifts included in the "total amount of gifts" made by the donor during the calendar quarter or calendar year (see section 2503 and the regulations thereunder) and made to or for the use of:

* * * * *

PAR. 71. Section 25.2522(b) is amended by revising so much of section 2522(b) as precedes paragraph (1) thereof, by revising section 2522(b)(2) and (3) and by adding a historical note. These revised and added provisions read as follows:

§ 25.2522(b) Statutory provisions; charitable and similar gifts; nonresidents.

SEC. 2522. *Charitable and similar gifts*. * * *

(b) *Nonresidents*. In the case of a nonresident not a citizen of the United States, there shall be allowed as a deduction the amount of all gifts made during such quarter to or for the use of—

* * * * *

(2) A domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office;

(3) A trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office; but only if such gifts are to be used within the United States exclusively for such purposes;

* * * * *

[Sec. 2522(b) as amended by sec. 201(d)(4), Tax Reform Act 1969 (83 Stat. 561); sec. 102(c)(2) Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 72. Section 25.2523(a) is amended to read as follows:

§ 25.2523(a) Statutory provisions; gift to spouse; in general.

SEC. 2523. *Gift to spouse*—(a) *In general*. Where a donor who is a citizen or resident transfers during the calendar quarter by gift an interest in property to a donee who at the time of the gift is the donor's spouse, there shall be allowed as a deduction in computing taxable gifts for the calendar quarter an amount with respect to such interest equal to one-half of its value.

[Sec. 2523(a) as amended by sec. 102(c)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 73. Section 25.2523(a)-1 is amended by revising paragraphs (a) and (b), by redesignating paragraph (c) as (d), and by inserting a new paragraph (c) immediately after paragraph (b). These revised and added provisions read as follows:

§ 25.2523(a)-1 Gift to spouse; in general.

(a) *In general*. In determining the amount of taxable gifts for the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971), a donor who was a citizen or resident of the United States at the time the gift was made, may deduct an amount equal to one-half the value of any property interest (except as otherwise provided in paragraph (b) of this section) transferred by gift to a donee who at the time of the gift was the donor's spouse. (See § 25.2502-1(c)(1) for the definition of calendar quarter.) This deduction is referred to as the "marital deduction". No marital deduction is authorized with respect to a gift if the donor, at the time of the gift, was a nonresident not a citizen of the United States. However, if the donor was a citizen or resident of the United States at the time the gift was made, he is not deprived of the right to the marital deduction by reason of the fact that his spouse was a nonresident not a citizen. For convenience the donor's spouse is generally referred to in the feminine gender, but if the donor is a woman the reference is to her husband. The donor must submit such proof as is necesary to establish the right to the marital deduction, including any evidence requested by the Internal Revenue Service.

(b) *"Deductible interests" and "nondeductible interests"*—(1) *In general*. The property interests transferred by a donor to his spouse consist of either transfers with respect to which the marital deduction is authorized (as described in subparagraph (2) of this paragraph) or transfers with respect to which the marital deduction is not authorized (as described in subparagraph (3) of this paragraph). These transfers are referred to in this section and in §§ 25.2523(b)-1 through 25.2523(f)-1 as "deductible interests" and "nondeductible interests", respectively.

(2) *"Deductible interest"*. A property interest transferred by a donor to his spouse is a "deductible interest" if it does not fall within either class of "nondeductible interests" described in subparagraph (3) of this paragraph.

(3) *"Nondeductible interests"*. (i) A property interest transferred by a donor to his spouse which is a "terminable interest", as defined in § 25.2523(b)-1, is a "nondeductible interest" to the extent specified in that section.

(ii) Any property interest transferred by a donor to his spouse is a "nondeductible interest" to the extent that it is not included in the total amount of gifts made during the calendar quarter (with respect to gifts made after December 31, 1971) or calendar year (with respect to gifts made before January 1, 1971). See §§ 25.2515–1 (relating to tenancies by the entirety) and 25.2516–1 (relating to property settlements followed by divorce) for some, but not necessarily all, of the situations in which property is transferred by a donor to his spouse and not included in the total amount of gifts made during the calendar quarter or calendar year.

(c) *Marital deduction computation.* The amount of the marital deduction for a particular calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) will depend upon whether the gifts made by the donor to his spouse during the calendar quarter or calendar year are terminable interests, and whether the limitations of §§ 25.2523(f)–1 (relating to gifts of community property) and 25.2524–1 (relating to cases in which transfers by gift are not included in the "total amount of gifts" pursuant to the provisions of section 2503(b)) are applicable. Generally, the marital deduction is equal to one-half of the aggregate value of the "deductible interests." The following examples (in each of which it is assumed that the donor has previously utilized his entire $30,000 specific exemption provided by section 2521) illustrate the marital deduction computation and the interrelationship of sections 2503(b) and 2523(a):

Example (1). A donor made a transfer by gift of $6,000 cash to his spouse on December 25, 1971. The donor made no other transfers during 1971. The amount of the marital deduction for the fourth calendar quarter of 1971 is $3,000 (one-half of $6,000); the amount of the annual exclusion under section 2503(b) is $3,000; and the amount of taxable gifts is zero ($6,000—$3,000 (annual exclusion)—$3,000 (marital deduction)).

Example (2). A donor made transfers by gift to his spouse of $3,000 cash on January 1, 1971, and $3,000 cash on May 1, 1971. The donor made no other transfers during 1971. For the first calendar quarter of 1971 the marital deduction is zero because the amount excluded under section 2503(b) is $3,000, and the amount of taxable gifts is also zero. For the second calendar quarter of 1971 the marital deduction is $1,500 (one-half of $3,000), and the amount of taxable gifts is $1,500 ($3,000—$1,500 (marital deduction)). Under section 2503(b) no amount of the second $3,000 gift may be excluded because the entire $3,000 annual exclusion was applied against the gift made in the first calendar quarter of 1971.

Example (3). A donor made a transfer by gift to his spouse of $10,000 cash on April 1, 1972. The donor made no other transfers during 1972. For the second calendar quarter of 1972 the amount of the marital deduction is $5,000 (one-half of $10,000); the amount excluded under section 2503(b) is $3,000; the amount of taxable gifts is $2,000 ($10,000 —$3,000 (annual exclusion) —$5,000 (marital deduction)).

Example (4). A donor made transfers by gift to his spouse of $2,000 cash on January 1, 1971, $2,000 cash on April 5, 1971, and $10,000 cash on December 1, 1971. The donor made no other transfers during 1971. For the first calendar quarter of 1971 the marital deduction is zero because the amount excluded under section 2503(b) is $2,000, and the amount of taxable gifts is also zero. For the second calendar quarter of 1971 the marital deduction is $1,000 (one-half of $2,000) (see section 2524); the amount excluded under section 2503(b) is $1,000 because $2,000 of the $3,000 annual exclusion was applied against the gift made in the first calendar quarter of 1971; and the amount of taxable gifts is zero ($2,000—$1,000 (annual exclusion) —$1,000 (martial deduction)). For the fourth calendar quarter of 1971, the marital deduction is $5,000 (one-half of $10,000); the amount excluded under section 2503(b) is zero because the entire $3,000 annual exclusion was applied against the gifts made in the first and second calendar quarters of 1971; and the amount of taxable gifts is $5,000 ($10,000—$5,000 (marital deduction)).

Example (5). A donor made transfers by gift to his spouse of $2,000 cash on January 10, 1972, $2,000 cash on May 1, 1972, and a remainder interest valued at $16,000 on June 1, 1972. The donor made no other transfers during 1972. For the first calendar quarter of 1972, the marital deduction is zero because $2,000 is excluded under section 2503(b), and the amount of taxable gifts is also zero. For the second calendar quarter of 1972 the marital deduction is $9,000 (one-half of $16,000 plus one-half of $2,000); the amount excluded under section 2503(b) is $1,000 because $2,000 of the $3,000 annual exclusion was applied against the gift made in the first calendar quarter of 1971; and the amount of taxable gifts is $8,000 ($18,000 —$1,000 (annual exclusion) —$9,000 (marital deduction)).

Example (6). A donor made transfers by gift to his spouse of $2,000 cash on January 1, 1972, a remainder interest valued at $16,000 on January 5, 1972, and $2,000 cash on April 30, 1972. The donor made no other transfers during 1972. For the first calendar quarter of 1972, the marital deduction is $9,000 (one-half of $16,000 plus one-half of $2,000); the amount excluded under section 2503(b) is $2,000; and the amount of taxable gifts is $7,000 ($18,000 —$2,000 (annual exclusion) —$9,000 marital deduction)). For the second calendar quarter of 1972 the marital deduction is $1,000 (one-half of $2,000); the amount excluded under section 2503(b) is $1,000 because $2,000 of the $3,000 annual exclusion was applied against the gift of the present interest in the first calendar quarter of 1971; and the amount of taxable gifts is zero ($2,000 —$1,000 (annual exclusion) —$1,000 (marital deduction)).

Example (7). A donor made a transfer by gift to his spouse of $12,000 cash on July 1, 1955. The donor made no other transfers during 1955. For the calendar year 1955 the amount of the marital deduction is $6,000 (one-half of $12,000); the amount excluded under section 2503(b) is $3,000; and the amount of taxable gifts is $3,000 ($12,000 —$3,000 (annual exclusion) —$6,000 (marital deduction)).

(d) *Valuation.* If the income from property is made payable to the donor or another individual for life, or for a term of years, with remainder absolutely to the donor's spouse or to her estate, the marital deduction is equal to one-half the present value of the remainder. The present value of the remainder (that is, its value as of the date of gift) is to be determined in accordance with the rules stated in § 25.2512–9 (§ 25.2512–5 in the case of a remainder transferred before January 1, 1971). See the example in paragraph (d) of § 25.2512–9 (§ 25.2512–5 in the case of a remainder transferred before January 1, 1971). If the remainder is such that its value is to be determined by a special computation (see § 25.2512–9(e)), a request for a specific factor, accompanied by a statement of the dates of birth of each person, the duration of whose life may affect the value of the remainder, and by copies of the relevant instruments may be submitted by the donor to the Commissioner who, if conditions permit, may supply the factor requested. If the Commissioner does not furnish the factor, the claim for deduction must be supported by a full statement of the computation of the present value, made in accordance with the principles set forth in § 25.2512–9(e).

PAR. 74. Section 25.2523(d)–1 is amended to read as follows:

§ 25.2523(d)–1 Joint interests.

Section 2523(d) provides that if a property interest is transferred to the donee spouse as sole joint tenant with the donor or as a tenant by the entirety, the interest of the donor in the property which exists solely by reason of the possibility that the donor may survive the donee spouse, or that there may occur a severance of the tenancy, is not for the purposes of section 2523(b), to be considered as an interest retained by the donor in himself. Under this provision, the fact that the donor may, as surviving tenant, possess or enjoy the property after the termination of the interest transferred to the donee spouse does not preclude the allowance of the marital deduction with respect to the latter interest. Thus, if the donor purchased real property in the name of himself and wife as tenants by the entirety, or as joint tenants with right of survivorship and, pursuant to the provisions of section 2515 (c), elected to treat such transaction as a completed gift in the calendar quarter (calendar year with respect to gifts made before January 1, 1971) affected, a marital deduction equal to one-half the value of the interest of the donee spouse in such property may be taken. See paragraph (c) of § 25.2523(b)–1, and section 2524.

PAR. 75. Section 25.2524–1 is amended to read as follows:

§ 25.2524–1 Extent of deductions.

Under the provisions of section 2524, the charitable deduction provided for in section 2522 and the marital deduction provided for in section 2523 are allowable only to the extent that the gifts, with respect to which those deductions are authorized, are included in the "total amount of gifts" made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971), computed as provided in section 2503 and § 25.2503–1 (i.e., the total gifts less exclusions). The following examples (in both of which it is assumed that the donor has previously utilized his entire $30,000 specific exemption provided by section 2521) illustrate the application of the provisions of this section:

Example (1). A donor made transfers by gift to his spouse of $5,000 cash on January 1, 1971, and $1,000 cash on April 5, 1971. The donor made no other transfers during 1971. The first $3,000 of such gifts for the calendar year is excluded under the provisions of section 2503(b) in determining the "total amount of gifts" made during the first calendar quarter of 1971. The marital deduction for the first calendar quarter of $2,500 (one-half of $5,000) otherwise allowable is limited by section 2524 to $2,000. The amount of taxable gifts is zero ($5,000−$3,000 (annual exclusion) −$2,000 (marital deduction)). For the second calendar quarter of 1971, the marital deduction is $500 (one-half of $1,000); the amount excluded under section 2503(b) is zero because the entire $3,000 annual exclusion was applied against the gift in the first calendar quarter of 1971; and the amount of taxable gifts is $500 ($1,000−$500 (marital deduction)).

Example (2). The only gifts made by a donor to his spouse during calendar year 1969 were a gift of $2,400 in May and a gift of $3,000 in August. The first $3,000 of such gifts is excluded under the provisions of section 2503(b) in determining the "total amount of gifts" made during the calendar year. The marital deduction for 1969 of $2,700 (one-half of $2,400 plus one-half $3,000) otherwise allowable is limited by section 2524 to $2,400. The amount of taxable gifts is zero ($5,400−$3,000 (annual exclusion) −$2,400 (marital deduction)).

PAR. 76. Section 25.6019 is amended to read as follows:

§ 25.6019 Statutory provisions; gift tax returns.

SEC. 6019. *Gift tax returns*—(a) *In general.* Any individual who in any calendar quarter makes any transfers by gift (other than transfers which under section 2503(b) are not to be included in the total amount of gifts for such quarter and other than qualified charitable transfers) shall make a return for such quarter with respect to the gift tax imposed by subtitle B.

(b) *Qualified charitable transfers*—(1) *Return requirement.* A return shall be made of any qualified charitable transfer—

(A) For the first calendar quarter, in the calendar year in which the transfer is made, for which a return is required to be filed under subsection (a), or

(B) If no return is required to be filed under subparagraph (A), for the fourth calendar quarter in the calendar year in which such transfer is made.

A return made pursuant to the provisions of this paragraph shall be deemed to be a return with respect to any transfer reported as a qualified charitable transfer for the calendar quarter in which such transfer was made.

(2) *Definition of qualified charitable transfer.* For purposes of this section, the term "qualified charitable transfer" means a transfer by gift with respect to which a deduction is allowable under section 2522 in an amount equal to the amount transferred.

(c) *Tenancy by the entirety.* For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c).

[Sec. 6019 as amended by sec. 102(d)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 77. Section 25.6019–1 is amended to read as follows:

§ 25.6019–1 Persons required to file returns.

(a) *In general.* Except in the case of a gift of a future interest in property, any individual citizen or resident of the United States who, within any calendar year beginning after December 31, 1970, makes a transfer or transfers by gift to any one donee of a value or total value in excess of $3,000 (other than qualified charitable transfers described in paragraph (b) of this section) must file a gift tax return on Form 709 for—(1) the calendar quarter in which the value of the gift or the sum of the values of the gifts to such donee during that calendar year exceeds $3,000, and (2) for any subsequent quarter within the same calendar year in which any additional gift is made to the same donee. For example, assume that the only gifts made by A during calendar year 1971 were gifts to B of $2,000 on January 1, 1971, $2,000 on July 1, 1971, and $2,000 on December 1, 1971. Thus, A must file a gift tax return for the third and fourth calendar quarters of 1971, but no return is required for the first or second calendar quarter of 1971. Each citizen or resident must file a return on Form 709 for the calendar quarter beginning after December 31, 1970, in which he makes a gift of a future interest in property, regardless of the value of the transfer. If any individual citizen or resident of the United States makes a transfer or transfers by gift within any calendar year from 1955 to 1970, inclusive, to any one donee of a value or total value in excess of $3,000 (or any gift of a future interest in property regardless of value), he must file a gift tax return on Form 709 for that year. The rules contained in this section also apply to a nonresident not a citizen of the United States provided that under § 25.2511–3 the transfer is subject to the gift tax. The return is required even though because of the deductions authorized by sections 2521 (specific exemption), 2522 (charitable, etc., deduction), and 2523 (marital deduction), no tax may be payable. Individuals only are required to file returns and not trusts, estates, partnerships or corporations. Duplicate copies of the return are not required to be filed. See §§ 25.6075–1 and 25.6091–1 for the time and place for filing the gift tax return. For delinquency penalty for failure to file return or pay the tax, see section 6651 and § 301.6651–1 of this chapter (Regulations on Procedure and Administration). For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207. For the gift tax return requirements with respect to qualified charitable transfers see paragraph (b) of this section.

(b) *Qualified charitable transfers*—(1) *Definition.* For purposes of this section, a "qualified charitable transfer" is a transfer by gift for which a deduction is allowable under section 2522 for the amount of the gift to the extent not excludable under section 2503(b) and the regulations thereunder. For example, if a donor gives securities outright to a qualified charitable organization described in section 2522, he is entitled to a charitable deduction under section 2522 equal to the amount of the transfer not otherwise excludable under section 2503(b), and therefore the transfer is a "qualified charitable transfer". If, however, the donor makes a gift of a split-interest, such as a gift to his son for life of the annuity interest in a charitable remainder annuity trust (see section 664), with a gift of the remainder interest in the trust to charity upon termination of the son's annuity interest, the transfer is not a "qualified charitable transfer" because the value of the entire gift (i.e., the value of the entire property transferred to the charitable remainder trust) less the annual exclusion provided by section 2503(b) exceeds the deduction allowed under section 2522 for the charitable remainder. This paragraph applies only to gifts made after December 31, 1970.

(2) *Return requirement.* If a donor's only gift during a calendar year was a qualified charitable transfer of a present interest in property the value of which exceeds $3,000, the transfer must be reported on a gift tax return for the fourth calendar quarter of such year regardless of when the qualified charitable transfer was made during the calendar year. However, if subsequent to such transfer a return is required to be filed under paragraph (a) of this section for a calendar quarter prior to the fourth calendar quarter of such calendar year, then the qualified charitable transfer must be reported on the return filed for such calendar quarter. A return filed pursuant to the provisions of this subparagraph, reporting a gift as a qualified charitable transfer, shall be treated as a return with respect to such transfer for the calendar quarter in which the transfer was made. Therefore, if the reported transfer is subsequently determined not to be a qualified charitable transfer, the donor shall be considered as having filed a return insofar as that transfer is concerned. Thus, the period of limitations on assessment under section 6501 runs from the date on which the return reporting the transfer is filed.

(3) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). On January 10, 1972, A transfers by gift property in trust to make certain payments therefrom to his wife for her life, with the remainder to a charitable organization upon the wife's death. Because the transfer is not a qualified charitable transfer, the entire transfer to the split-interest trust must be reported on a gift tax return filed on or before May 15, 1972. A may be entitled to a gift tax charitable deduction provided the trust qualifies under section 664 (charitable remainder trusts) or section 642(c)(5) (pooled income funds).

Example (2). On January 1, 1971, B transfers by gift $2,000 to C and $4,000 to a charitable organization. This latter gift is a qualified charitable transfer. B made no other gifts during 1971. B is not required to file a return for the gift to C because of the $3,000 annual exclusion provided in section 2503(b). The qualified charitable transfer is not required to be reported until the return for the fourth quarter of 1971 is filed. Thus, the only gift tax return required for 1971 should be filed on or before February 15, 1972.

Example (3). On March 2, 1971, D makes a qualified charitable transfer. On June 1, 1971, he transfers by gift $10,000 to E. D made no other gifts during 1971. Because a return is required on or before August 15, 1971, for the gift made in the second calendar quarter of 1971, the qualified charitable transfer must also be reported on that return.

Example (4). A transfer by gift is made by F in January of 1972 and reported as a qualified charitable transfer on a return filed on February 15, 1973, for the fourth calendar quarter of 1972. The period of limitations on assessment of gift tax liability with respect to the claimed qualified charitable transfer begins to run from February 15, 1973.

(c) *Deceased donor*. If the donor dies before filing his return, the executor or administrator of his estate shall file the return. If the donor becomes legally incompetent before filing his return, his guardian or committee shall file the return.

(d) *Ratification of return*. The return shall not be made by an agent unless by reason of illness, absence, or nonresidence, the person liable for the return is unable to make it within the time prescribed. Mere convenience is not sufficient reason for authorizing an agent to make the return. If by reason of illness, absence or nonresidence, a return is made by an agent, the return must be ratified by the donor or other person liable for its filing within a reasonable time after such person becomes able to do so. If the return filed by the agent is not so ratified, it will not be considered the return required by the statute. Supplemental data may be submitted at the time of ratification. The ratification may be in the form of a statement, executed under the penalties of perjury and filed with the internal revenue officer with whom the return was filed, showing specifically that the return made by the agent has been carefully examined and that the person signing ratifies the return as the donor's. If a return is signed by an agent, a statement fully explaining the inability of the donor must accompany the return.

PAR. 78. Section 25.6019-2 is amended to read as follows:

§ 25.6019-2 Returns required in case of consent under section 2513.

Except as otherwise provided in this section, the provisions of § 25.6019-1 are applicable with respect to the filing of a gift tax return or returns in the case of a husband and wife who consent (see § 25.2513-1) to the application of section 2513. In such a case, if both of the consenting spouses are (without regard to the provisions of section 2513) required under the provisions of § 25.6019-1 to file returns, returns must be filed by both spouses. If only one of the consenting spouses is (without regard to the provisions of section 2513) required under § 25.6019-1 to file a return, a return must be filed by that spouse. In the latter case, if after giving effect to the provisions of section 2513 the other spouse is considered to have made any gift (regardless of value) of a future interest in property or any gift or gifts to any one third-party donee exceeding $3,000 in value, then a return must also be filed by such other spouse. Thus, if during any calendar quarter (calendar year in the case of gifts made before January 1, 1971) the husband made a gift of $5,000 to a son (the gift not being a future interest in property) and the wife made no gifts, only the husband is required to file a return for such calendar quarter (calendar year). However, if the wife had made a gift of $2,000 to the same son in the same calendar quarter (calendar year), or if the gift made by the husband had amounted to $7,000, each spouse would be required to file a return if the consent is signified as provided in section 2513. (See § 25.2502-1(c)(1) for the definition of calendar quarter.)

PAR. 79. Section 25.6019-3 is amended to read as follows:

§ 25.6019-3 Contents of return.

(a) *In general*. The return shall set forth: (1) Each gift made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) which under sections 2511 through 2515 is to be included in computing taxable gifts; (2) the deductions claimed and allowable under sections 2521 through 2524; and (3) the taxable gifts made for each of the preceding calendar years and calendar quarters (with respect to gifts made after December 31, 1970) or for each of the preceding calendar years (with respect to gifts made before January 1, 1971). (See § 25.2504-1.) In addition the return shall set forth the fair market value of all gifts not made in money, including gifts resulting from sales and exchanges of property made for less than full and adequate consideration in money or money's worth, giving, as of the date of the sale or exchange, both the fair market value of the property sold or exchanged and the fair market value of the consideration received by the donor. If a donor contends that his retained power over property renders the gift incomplete (see § 25.2511-2) and hence not subject to tax as of the calendar quarter or calendar year of the initial transfer, the transaction should be disclosed in the return for the calendar quarter or calendar year of the initial transfer and evidence showing all relevant facts, including a copy of the instrument of transfer, shall be submitted with the return. The instructions printed on the return should be carefully followed. A certified or verified copy of each document required by the instructions printed on the return form shall be filed with the return. Any additional documents the donor may desire to submit may be submitted with the return.

(b) *Disclosure of transfers coming within provisions of section 2516*. Section 2516 provides that certain transfers of property pursuant to written property settlements between husband and wife are deemed to be transfers for full and adequate consideration in money or money's worth if divorce occurs within 2 years. In any case where a husband and wife enter into a written agreement of the type contemplated by section 2516, and the final decree of divorce is not granted on or before the due date for the filing of a gift tax return for the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) in which the agreement became effective (see § 25.6075-1), the transfer shall be disclosed by the transferor upon a gift tax return filed for the calendar quarter or calendar year in which the agreement became effective and a copy of the agreement shall be attached to the return. In addition, a certified copy of the final divorce decree shall be furnished the internal revenue officer with whom the return was filed not later than 60 days after the divorce is granted. Pending receipt of evidence that the final decree of divorce has been granted (but in no event for a period of more than 2 years from the effective date of the agreement), the transfer will tentatively be treated as made for a full and adequate consideration in money or money's worth.

PAR. 80. Section 25.6019-4 is amended to read as follows:

§ 25.6019-4 Description of property listed on return.

The properties comprising the gifts made during the calendar quarter (with respect to gifts made after December 31, 1970) or calendar year (with respect to gifts made before January 1, 1971) shall be listed on the return and shall be described in such a manner that they may be readily identified. Thus, there should be given for each parcel of real estate a legal description, its area, a short statement of the character of any improvements, and, if located in a city, the name of the street and number. Description of bonds shall include the number transferred, principal amount, name of obligor, date of maturity, rate of interest, date or dates on which interest is payable, series number where there is more than one issue, and the principal exchange upon which listed, or the principal business office of the obligor, if unlisted. Description of stocks shall include number of shares, whether common or preferred, and, if preferred, what issue thereof, par value, quotation at which returned, exact name of corporation, and, if the stock is unlisted, the location of the principal business office, the State in which incorporated and the date of incorporation, or if the stock is listed, the principal exchange upon which sold. Description of notes shall include name of maker, date on which given, date of maturity, amount of principal, amount of principal unpaid, rate of interest and whether simple or compound, and date to which interest has been paid. If the gift of property includes accrued income thereon to the date of the gift, the amount of such accrued income shall be separately set forth. Description of the seller's interest in land contracts transferred shall include name of buyer, date of contract, description of property, sale price, initial payment, amounts of installment payments, unpaid balance of principal, interest rate and date prior to gift to which interest has been paid. Description of life insurance policies shall show the name of the insurer and the number of the policy. In describing an annuity, the name and address of the issuing company shall be given, or, if payable out of a trust or other fund, such a description as will fully identify the trust or fund. If the annuity is payable for a term of years, the duration of the term and the date on which it began shall be given, and if payable for the life of any person, the date of birth of that person shall be stated. Judgments shall be described by giving the title of the cause and the name of the court in which rendered, date of judgment, name and address of judgment debtor, amount of judgment, rate of interest to which subject, and by stating whether any payments have been made thereon, and, if so, when and in what amounts.

PAR. 81. Section 25.6075 is amended to read as follows:

§ 25.6075 Statutory provisions; time for filing gift tax returns.

SEC. 6075. *Time for filing estate and gift tax returns.*

* * * * *

(b) *Gift tax returns.* Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

[Sec. 6075 as amended by sec. 102(d)(4), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 82. Section 25.6075–1 is amended to read as follows:

§ 25.6075–1 Returns; time for filing gift tax returns.

The gift tax return required by section 6019 must be filed on or before the due date. The due date is the date on or before which the return is required to be filed in accordance with the provisions of section 6075(b) or the last day of the period covered by an extension of time granted, as provided in § 25.6081–1. With respect to gifts made after December 31, 1970, unless an extension of time has been granted, the due date is the 15th day of the second month following the close of the calendar quarter in which the gift was made. For example, the gift tax return and payment of the tax for a gift made on February 1, 1972, will be due on or before May 15, 1972. If the same taxpayer also makes a taxable gift on September 10, 1972, he must file a gift tax return and pay the tax attributable to that gift by November 15, 1972. With respect to gifts made before January 1, 1971, unless an extension of time has been granted, the due date is the 15th day of April following the close of the calendar year in which the gift was made. For example, if an individual makes taxable gifts in January and April of 1970, he must file his gift tax return and pay the gift tax no later than April 15, 1971. When the due date falls on Saturday, Sunday, or a legal holiday, the due date for filing the return is the next succeeding day which is not Saturday, Sunday, or a legal holiday. For definition of a legal holiday, see section 7503 and § 301.7503–1 of this chapter (Regulations on Procedure and Administration). As to additions to the tax for failure to file the return within the precribed time, see section 6651 and § 301.6651–1 of this chapter (Regulations on Procedure and Administration).

PAR. 83. Section 25.6091–1 is amended by revising paragraph (a) and by adding a new paragraph (c) immediately after paragraph (b). These revised and added provisions read as follows:

§ 25.6091–1 Place for filing returns and other documents.

(a) *In general.* If the donor is a resident of the United States, the gift tax return required by section 6019 shall be filed with the district director for the district in which the legal residence or principal place of business of the donor is located. If the donor is a nonresident (whether or not a citizen), and his principal place of business is located in an internal revenue district, the gift tax return shall be filed with the district director for the internal revenue district in which the donor's principal place of business is located.

* * * * *

(c) *Returns of certain nonresidents.* If the donor is a nonresident (whether or not a citizen), and he does not have a principal place of business which is located in an internal revenue district, the gift tax return required by section 6019, whether or not such return is made by hand carrying, shall be filed with the Director of International Operations, Internal Revenue Service, Washington, D.C. 20225, or in accordance with the instructions applicable to such return.

PAR. 84. Section 25.6161 is amended to read as follows:

§ 25.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (* * *) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1, 12, or 42, for a period not to exceed 18 months from the date fixed for payment of the deficiency, and, in exceptional cases, for a further period not to exceed 12 months;

* * * * *

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

* * * * *

[Sec. 6161 as amended by sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 85. Section 25.6324 is amended to read as follows:

§ 25.6324 Statutory provisions; special liens for estate and gift taxes.

SEC. 6324. *Special liens for estate and gift taxes*—* * *

(b) *Lien for gift tax.* Except as otherwise provided in subsection (c), unless the gift tax imposed by chapter 12 is sooner paid in full or becomes unenforceable by reason of lapse of time, such tax shall be a lien upon all gifts made during the period for which the return was filed, for 10 years from the date the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest shall be divested of the lien imposed by this subsection and such lien, to the extent of the value of such gift, shall attach to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest.

(c) *Exceptions.* (1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

[Sec. 6324 as amended by sec. 236 (b), (c), Rev. Act 1964 (78 Stat. 127, 128); sec. 102, Federal Tax Lien Act 1966 (80 Stat. 1132); sec. 102(d)(7), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 86. The following new sections are inserted immediately before § 25.7101:

§ 25.6905 Statutory provisions; discharge of executor from personal liability for decedent's income and gift taxes.

(a) Section 6905 as added by section 101 (e) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

SEC. 6905. *Discharge of executor from personal liability for decedent's income and gift taxes*—(a) *Discharge of liability.* In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) for release from personal liability for such taxes, the Secretary or his delegate may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 1 year after receipt of the application if no notification is made by the Secretary or his delegate before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing showing such discl arge.

(b) *Definition of executor.* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross-reference.* For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204.

[Sec. 6905 as added by sec. 101(e), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

§ 25.6905-1 Discharge of executor from personal liability for decedent's income and gift taxes.

For regulations concerning the discharge of an executor from personal liability for a decedent's income and gift taxes, see § 301.6905-1 of this chapter (Regulations on Procedure and Administration).

PART 301—PROCEDURE AND ADMINISTRATION

PAR. 87. Section 301.6019 is amended to read as follows:

§ 301.6019 Statutory provisions; gift tax returns.

SEC. 6019. *Gift tax returns*—(a) *In general.* Any individual who in any calendar quarter makes any transfers by gift (other than transfers which under section 2503(b) are not to be included in the total amount of gifts for such quarter and other than qualified charitable transfers) shall make a return for such quarter with respect to the gift tax imposed by subtitle B.

(b) *Qualified charitable transfers*—(1) *Return requirement.* A return shall be made of any qualified charitable transfer—

(A) For the first calendar quarter, in the calendar year in which the transfer is made, for which a return is required to be filed under subsection (a), or

(B) If no return is required to be filed under subparagraph (A), for the fourth calendar quarter in the calendar year in which such transfer is made.

A return made pursuant to the provisions of this paragraph shall be deemed to be a return with respect to any transfer reported as a qualified charitable transfer for the calendar quarter in which such transfer was made.

(2) *Definition of qualified charitable transfer.* For purposes of this section, the term "qualified charitable transfer" means a transfer by gift with respect to which a deduction is allowable under section 2522 in an amount equal to the amount transferred.

(C) *Tenancy by the entirety.* For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c).

[Sec. 6019 as amended by sec. 102(d)(3), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 88. Section 301.6036-1 is amended by revising paragraph (b) to read as follows:

§ 301.6036-1 Notice required of executor or of receiver or other like fiduciary.

* * * * *

(b) *Executors, administrators, and persons in possession of property of decedent.* For provisions relating to the requirement of filing, by an executor, administrator, or person in possession of property of a decedent, of a preliminary notice in the case of the estate of a decedent dying before January 1, 1971, see § 20.6036-1 of this chapter (Estate Tax Regulations).

* * * * *

PAR. 89. Section 301.6039 is amended by revising the heading, by renumbering section 6039 as section 6040, by deleting paragraph (6), and by revising paragraph (2) and the historical note to read as follows:

§ 301.6040 Statutory provisions; cross references.

SEC. 6040. *Cross references.** * *

(2) For application by fiduciary for determination of tax and discharge from personal liability therefor, see section 2204.

* * * * *

[Sec. 6037 as renumbered by sec. 64(c), Technical Amendments Act 1958 (72 Stat. 1656); sec. 6, Act of Sept. 14, 1960 (Pub. Law 86-780, 74 Stat. 1014); sec. 221(b), Rev. Act 1964 (78 Stat. 73); as amended by sec. 305, Excise Tax Reduction Act 1965 (79 Stat. 148); sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 90. Section 301.6075 is amended to read as follows:

§ 301.6075 Statutory provisions; time for filing estate and gift tax returns.

SEC. 6075. *Time for filing estate and gift tax returns*—(a) *Estate tax returns.* Returns made under setcion 6018(a) (relating to estate taxes) shall be filed within 9 months after the date of the decedent's death.

(b) *Gift tax returns.* Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter.

[Sec. 6075 as amended by secs. 101(b), 102(d)(4), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1836, 1842)]

PAR. 91. Section 301.6091 is amended by revising section 6091(b) and by adding a historical note. These revised and added provisions read as follows:

§ 301.6091 Statutory provisions; place for filing returns or other documents.

SEC. 6091. *Place for filing returns or other documents.* * * *

(b) *Tax returns.* In the case of returns of tax required under authority of part II of this subchapter—

(1) *Persons other than corporations*—(A) *General Rule.* Except as provided in subparagraph (B), a return (other than a corporation return) shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which is located the legal residence or principal place of business of the person making the return, or

(ii) At a service center serving the internal revenue district referred to in clause (i),

as the Secretary or his delegate may by regulations designate.

(B) *Exception.* Returns of—

(i) Persons who have no legal residence or principal place of business in any internal revenue district,

(ii) Citizens of the United States whose principal place of abode for the period with respect to which the return is filed is outside the United States,

(iii) Persons who claim the benefits of section 911 (relating to earned income from sources without the United States), section 931 (relating to income from sources within possessions of the United States), or section 933 (relating to income from sources within Puerto Rico), and

(iv) Nonresident alien persons,

shall be made at such place as the Secretary or his delegate may by regulations designate.

(2) *Corporations*—(A) *General rule.* Except as provided in subparagraph (B), a return of a corporation shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which is located the principal place of business or principal office or agency of the corporation, or

(ii) At a service center serving the internal revenue district referred to in clause (i),

as the Secretary or his delegate may by regulations designate.

(B) *Exception.* Returns of—

(i) Corporations which have no principal place of business or principal office or agency in any internal revenue district,

(ii) Corporations which claim the benefits of section 922 (relating to special deduction for Western Hemisphere trade corporation), section 931 (relating to income from sources within possessions of the United States), or section 941 (relating to the special deduction for China Trade Act corporations), and

(iii) Foreign corporations,

shall be made at such place as the Secretary or his delegate may by regulations designate.

(3) *Estate tax returns*—(A) *General rule.* Except as provided in subparagraph (B), returns of estate tax required under section 6018 shall be made to the Secretary or his delegate—

(i) In the internal revenue district in which was the domicile of the decedent at the time of his death, or

(ii) At a service center serving the internal revenue district referred to in clause (i), as the Secretary or his delegate may by regulations designate.

(B) *Exception.* If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary or his delegate may by regulations designate.

(4) *Hand-carried returns.* Notwithstanding paragraph (1), (2), or (3), a return to which paragraph (1)(A), (2)(A), or (3)(A) would apply, but for this paragraph, which is made to the Secretary or his delegate by hand-carrying shall, under regulations prescribed by the Secretary or his delegate, be made in the internal revenue district referred to in paragraph (1)(A)(i), (2)(A)(i), or (3)(A)(i), as the case may be.

(5) *Exceptional cases.* Notwithstanding paragraph (1), (2), (3), or (4) of this subsection, the Secretary or his delegate may permit a return to be filed in any internal revenue district, and may require the return of any officer or employee of the Treasury Department to be filed in any internal revenue district selected by the Secretary or his delegate.

[Sec. 6091 as amended by sec. 1(a), Act of Nov. 2, 1966 (Public Law 89-713, 80 Stat. 1107); sec. 101(i), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 92. Section 301.6091-1(b) is amended by revising paragraph (b)(1) to read as follows:

§ 301.6091-1 Place for filing returns and other documents.

* * * * *

(b) *Exception for hand-carried documents other than returns.* Notwithstanding any other provisions of this chapter—

(1) *Persons other than corporations.* If a document, other than a return, of a person (other than a corporation) is hand carried, and if the document is otherwise required to be filed with a service center, such document may be filed with the district director for the internal revenue district in which is located the legal residence or principal place of business of such person, or, in the case of an estate, the internal revenue district in which was the domicile of the decedent at the time of his death. A document may also be filed by hand carrying such document to the appropriate service center, or, in the case of a document required to be filed (i) with the Office of International Operations, by hand carrying to such Office, or (ii) with the office of the assistant regional commissioner (alcohol and tobacco tax), by hand carrying to such office.

* * * * *

PAR. 93. Section 301.6161 is amended by revising section 6161(a)(1), by revising section 6161(b), and by revising the historical note. These revised provisions read as follows:

§ 301.6161 Statutory provisions; extension of time for paying tax.

SEC. 6161. *Extension of time for paying tax*—(a) *Amount determined by taxpayer on return*—(1) *General rule.* The Secretary or his delegate, except as otherwise provided in this title, may extend the time for payment of the amount of the tax shown, or required to be shown, on any return or declaration required under authority of this title (or any installment thereof), for a reasonable period not to exceed 6 months (12 months in the case of estate tax) from the date fixed for payment thereof. Such extension may exceed 6 months in the case of a taxpayer who is abroad.

* * * * *

(b) *Amount determined as deficiency.* Under regulations prescribed by the Secretary or his delegate, the Secretary or his delegate may extend, to the extent provided below, the time for payment of the amount determined as a deficiency:

(1) In the case of a tax imposed by chapter 1, 12, or 42, for a period not to exceed 18 months from the date fixed for payment of the deficiency and, in exceptional cases, for a further period not to exceed 12 months;

(2) In the case of a tax imposed by chapter 11, for a period not to exceed 4 years from the date otherwise fixed for payment of the deficiency.

An extension under this subsection may be granted only where it is shown to the satisfaction of the Secretary or his delegate that the payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer in the case of a tax imposed by chapter 1 or 42, to the estate in the case of a tax imposed by chapter 11, or to the donor in the case of a tax imposed by chapter 12. No extension shall be granted if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

* * * * *

[Sec. 6161 as amended by sec. 206(c), Small Business Tax Revision Act 1958 (72 Stat. 1684); sec. 101(j), Tax Reform Act 1969 (83 Stat. 530); sec. 101(h), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

PAR. 94. Section 301.6212 is amended by revising section 6212(a), by revising section 6212(b)(1), by revising section 6212(c)(1), by revising section 6212(c)(2)(A), and by revising the historical note. These revised provisions read as follows:

§ 301.6212 Statutory provisions; notice of deficiency.

SEC. 6212. *Notice of deficiency*—(a) *In general.* If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A or B or chapter 42, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

(b) *Address for notice of deficiency*—(1) *Income and gift taxes and taxes imposed by chapter 42.* In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, chapter 12, or chapter 42, if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, chapter 42, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

* * * * *

(c) *Further deficiency letters restricted*—(1) *General rule.* If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the tax court within the time prescribed in section 6213(a), the Secretary or his delegate shall have no right to determine any additional deficiency of income tax for the same taxable year, of gift tax for the same calendar quarter, of estate tax in respect of the taxable estate of the same decedent, of section 4940 tax for the same taxable year, or of chapter 42 tax (other than under section 4940) with respect to any act (or failure to act) to which such petition relates, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the tax court), in section 6213(b)(1) (relating to mathematical errors), or in section 6861(c) (relating to the making of jeopardy assessments).

(2) *Cross references* * * *

(A) Deficiency attributable to change of election with respect to the standard deduction where taxpayer and his spouse made separate returns, see section 144(b).

* * * * *

[Sec. 6212 as amended by secs. 76, 89(b), Technical Amendments Act 1958 (72 Stat. 1661, 1665); sec. 112(d), Rev. Act 1964 (78 Stat. 24); secs. 101 (f), (j), Tax Reform Act 1969 (83 Stat. 524, 526); sec. 102(d)(5), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 95. Section 301.6212-1 is amended by revising paragraph (c) to read as follows:

§ 301.6212-1 Notice of deficiency.

* * * * *

(c) *Further deficiency letters restricted.* If the district director (or assistant regional commissioner, appellate) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the tax court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same calendar quarter (calendar year with respect to gifts made before January 1, 1971), or estate tax with respect to the taxable estate of the same decedent. This restriction shall not apply in the case of fraud, assertion of greater deficiencies before the tax court as provided in section 6214(a), mathematical errors as provided in section 6213(b)(1), or jeopardy assessments as provided in section 6861(c).

PAR. 96. Section 301.6214 is amended to read as follows:

§ 301.6214 Statutory provisions; determinations by Tax Court.

SEC. 6214. *Determination by Tax Court*—(a) *Jurisdiction as to increase of deficiency, additional amounts, or additions to the tax.* Except as provided by section 7463, the Tax Court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or addition to the tax should be assessed, if claim therefor is asserted by the Secretary or his delegate at or before the hearing or a rehearing.

(b) *Jurisdiction over other years and quarters.* The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid.

(c) *Taxes imposed by section 507 or chapter 42.* The Tax Court, in redetermining a deficiency of any tax imposed by section 507 or chapter 42 for any period, act, or failure to act, shall consider such facts with relation to the taxes under chapter 42 for other periods, acts, or failures to act as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the taxes under chapter 42 for any other period, act, or failure to act have been overpaid or underpaid.

(d) *Final decisions of Tax Court.* For purposes of this chapter, chapter 42, and subtitle A or B the date on which a decision of the Tax Court becomes final shall be determined according to the provisions of section 7481.

[Sec. 6214 as amended by secs. 101(j)(43), 960(a), Tax Reform Act 1969 (83 Stat. 530, 734); sec. 102(d)(6), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1841)]

PAR. 97. Section 301.6314 is amended by revising section 6314(c)(2) and by adding a historical note. These revised and added provisions read as follows:

§ 301.6314 Statutory provisions; receipt for taxes.

SEC. 6314. *Receipt for taxes.* * * *

(c) *Cross-references.* * * *

(2) For receipt of discharge of fiduciary from personal liability, see section 2204.

[Sec. 6314 as amended by sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 98. Section 301.6324 is amended to read as follows:

§ 301.6324 Statutory provisions; special liens for estate and gift taxes.

SEC. 6324. *Special liens for estate and gift taxes*—(a) *Liens for estate tax.* Except as otherwise provided in subsection (c)—

(1) *Upon gross estate.* Unless the estate tax imposed by chapter 11 is sooner paid in full, or becomes unenforceable by reason of lapse of time, it shall be a lien upon the gross estate of the decedent for 10 years from the date of death, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

(2) *Liability of transferees and others.* If the estate tax imposed by chapter 11 is not paid when due, then the spouse, transferee, trustee (except the trustee of an employees' trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, to the extent of the value, at the time of the decedent's death, of such property, shall be personally liable for such tax. Any part of such property transferred by (or transferred by a transferee of) such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, to a purchaser or holder of a security interest shall be divested of the lien provided in paragraph (1) and a like lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, or beneficiary, or transferee of any such person, except any part transferred to a purchaser or a holder of a security interest.

(3) *Continuance after discharge of fiduciary.* The provisions of section 2204 (relating to discharge of fiduciary from personal liability) shall not operate as a release of any part of the gross estate from the lien for any deficiency that may thereafter be determined to be due, unless such part of the gross estate (or any interest therein) has been transferred to a purchaser or a holder of a security interest, in which case such part (or such interest) shall not be subject to a lien or to any claim or demand for any such deficiency, but the lien shall attach to the consideration received from such purchaser or holder of a security interest, by the heirs, legatees, devisees, or distributees.

(b) *Lien for gift tax.* Except as otherwise provided in subsection (c), unless the gift tax imposed by chapter 12 is sooner paid in full or becomes unenforceable by reason of lapse of time, such tax shall be a lien upon all gifts made during the period for which the return was filed, for 10 years from the date the gifts are made. If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest shall be divested of the lien imposed by this subsection and such lien, to the extent of the value of such gift, shall attach to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest.

(c) *Exceptions.* (1) The lien imposed by subsection (a) or (b) shall not be valid as against a mechanic's lienor and, subject to the conditions provided by section 6323(b) (relating to protection for certain interests even though noticed filed), shall not be valid with respect to any lien or interest described in section 6323(b).

(2) If a lien imposed by subsection (a) or (b) is not valid as against a lien or security interest, the priority of such lien or security interest shall extend to any item described in section 6323(e) (relating to priority of interest and expenses) to the extent that, under local law, such item has the same priority as the lien or security interest to which it relates.

[Sec. 6324 as amended by sec. 236 (b), (c), Rev. Act 1964 (78 Stat. 127, 128); sec. 102, Federal Tax Lien Act 1966 (80 Stat. 1132); secs. 101(d)(2), 102(d)(7), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837, 1842)]

PAR. 99. Section 301.6324–1 is amended to read as follows:

§ 301.6324–1 Special liens for estate and gift taxes; personal liability of transferees and others.

(a) *Estate tax.* (1) A lien for estate tax attaches at the date of the decedent's death to every part of the gross estate, whether or not the property comes into possession of the duly qualified executor or administrator. The lien attaches to the extent of the tax shown to be due by the return and of any deficiency in tax found to be due upon review and audit. If the estate tax is not paid when due, then the spouse, transferee, trustee (except the trustee of an employee's trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under sections 2034 to 2042, inclusive, shall be personally liable for the tax to the extent of the value, at the time of the decedent's death, of the property.

(2) Unless the tax is paid in full or becomes unenforceable by reason of lapse of time, and except as otherwise provided in paragraph (c) of this section, the lien upon the entire property constituting the gross estate continues for a period of 10 years after the decedent's death, except that the lien shall be divested with respect to—

(i) The portion of the gross estate used for the payment of charges against the estate and expenses of its administration allowed by any court having jurisdiction thereof;

(ii) Property included in the gross estate under sections 2034 to 2042, inclusive, which is transferred by (or transferred by the transferee of) the spouse, transferee, trustee, surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary to a purchaser or holder of a security interest. In such case a like lien attaches to all the property of the spouse, transferee, trustee, surviving tenant, person in possession, beneficiary, or transferee of any such person, except the part which is transferred to a purchaser or a holder of a security interest. See section 6323(h) (1) and (6) and the regulations thereunder, respectively, for the definitions of "security interest" and "purchaser";

(iii) The portion of the gross estate (or any interest therein) which has been transferred to a purchaser or holder of a security interest if payment is made of the full amount of tax determined by the district director pursuant to a request of the fiduciary (executor, in the case of the estate of a decedent dying before January 1, 1971) for discharge from personal liability as authorized by section 2204 (relating to discharge of fiduciary from personal liability) but there is substituted a like lien upon the consideration received from the purchaser or holder of a security interest; and

(iv) Property as to which the district director has issued a certificate releasing a lien under section 6325(a) and the regulations thereunder.

(b) *Lien for gift tax.* Except as provided in paragraph (c) of this section, a lien attaches upon all gifts made during the period for which the return was filed (see § 25.6019–1 of this chapter) for the amount of tax imposed upon the gifts made during such period. The lien extends for a period of 10 years from the time the gifts are made, unless the tax is sooner paid in full or becomes unenforceable by reason of lapse of time. If the tax is not paid when due, the donee of any gift becomes personally liable for the tax to the extent of the value of his gift. Any part of the property comprised in the gift transferred by the donee (or by a transferee of the donee) to a purchaser or holder of a security interest is divested of the lien, but a like lien, to the extent of the value of the gift, attaches to all the property (including after-acquired property) of the donee (or the transferee) except any part transferred to a purchaser or holder of a security interest. See section 6323(h) (1) and (6) and the regulations thereunder, respectively, for the definitions of "security interest" and "purchaser."

(c) *Exceptions.* (1) A lien described in either paragraph (a) or paragraph (b) of this section is not valid against a mechanic's lienor (as defined in section 6323(h)(2) and the regulations thereunder) and, subject to the conditions set forth under section 6323(b) (relating to protection for certain interests even though notice filed), is not valid with respect to any lien or interest described in section 6323(b) and the regulations thereunder.

(2) If a lien described in either paragraph (a) or paragraph (b) of this section is not valid against a lien or security interest (as defined in section 6323(h) (1) and the regulations thereunder), the priority of the lien or security interest extends to any item described in section

6323(e) (relating to priority of interest and expenses) to the extent that, under local law, the item has the same priority as the lien or security interest to which it relates.

(d) *Application of lien imposed by section 6321.* The general lien under section 6321 and the special lien under subsection (a) or (b) of section 6324 for the estate or gift tax are not exclusive of each other, but are cumulative. Each lien will arise when the conditions precedent to the creation of such lien are met and will continue in accordance with the provisions applicable to the particular lien. Thus, the special lien may exist without the general lien being in force, or the general lien may exist without the special lien being in force, or the general lien and the special lien may exist simultaneously, depending upon the facts and pertinent statutory provisions applicable to the respective liens.

PAR. 100. Section 301.6501(e) is amended by revising the heading, by revising the heading of section 6501(e), by revising section 6501(e)(2), by adding a new paragraph (3) immediately after paragraph (2), and by adding a historical note. These revised and added provisions read as follows:

§ 301.6501(e) Statutory provisions; limitations on assessments and collection; substantial omission of items.

SEC. 6501. *Limitations on assessment and collection.* * * *

(e) *Substantial omission of items.* * * *

(2) *Estate and gift taxes.* In the case of a return of estate tax under chapter 11 or a return of gift tax under chapter 12, if the taxpayer omits from the gross estate or from the total amount of the gifts made during the period for which the return was filed items includible in such gross estate or such total gifts, as the case may be, as exceed in amount 25 percent of the gross estate stated in the return or the total amount of gifts stated in the return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return was filed. In determining the items omitted from the gross estate or the total gifts, there shall not be taken into account any item which is omitted from the gross estate or from the total gifts stated in the return if such item is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the nature and amount of such item.

(3) *Excise taxes.* In the case of a return of a tax imposed under a provision of subtitle D, if the return omits an amount of such tax properly includible thereon which exceeds 25 percent of the amount of such tax reported thereon, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within 6 years after the return is filed. In determining the amount of tax omitted on a return, there shall not be taken into account any amount of tax imposed by chapter 42 which is omitted from the return if the transaction giving rise to such tax is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise the Secretary or his delegate of the existence and nature of such item.

[Sec. 6501(e) as amended by sec. 810(b), Excise Tax Reduction Act 1965 (79 Stat. 169); sec. 101(g)(3), Tax Reform Act 1969 (83 Stat. 525); sec. 102(d)(8), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 101. Section 301.6501(e)-1 is amended by revising paragraph (b)(1) to read as follows:

§ 301.6501(e)-1 Omission from return.

* * * * *

(b) *Estate and gift taxes.* (1) If the taxpayer omits from the gross estate as stated in the estate tax return, or from the total amount of the gifts made during the period for which the gift tax return was filed (see § 25.6019-1 of this chapter) as stated in such return, an item or items properly includible therein the amount of which is in excess of 25 percent of the gross estate as stated in the return, or 25 percent of the total amount of the gifts as stated in the return, the tax may be assessed, or a proceeding in court for the collection thereof may be begun without assessment, at any time within 6 years after the return was filed.

* * * * *

PAR. 102. Section 301.6504 is amended by deleting paragraph (8), by revising paragraph (3) and (9), and by revising the historical note to read as follows:

§ 301.6504 Statutory provisions; cross-references.

SEC. 6504. *Cross-references.* * * *

(3) Change of election with respect to the standard deduction where taxpayer and his spouse make separate returns, see section 144(b).

* * * * *

(9) Application by fiduciary for discharge from personal liability for estate tax, see section 2204.

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[Sec. 6504 as amended by sec. 4(d), Act of Apr. 2, 1956 (Pub. Law 466, 84th Cong., 70 Stat. 91); sec. 208(e)(5), Highway Rev. Act 1956 (70 Stat. 397); sec. 84(b), Technical Amendments Act 1958 (72 Stat. 1664); sec. 112(d), Rev. Act 1964 (78 Stat. 24); sec. 213(c), Tax Reform Act 1969 (83 Stat. 572); sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

PAR. 103. Section 301.6512 is amended by revising so much of section 6512(a) as precedes paragraph (1) thereof, by revising section 6512(b)(1), and by revising the historical note. These revised provisions read as follows:

§ 301.6512 Statutory provisions; limitations in case of petition to Tax Court.

SEC. 6512. *Limitations in case of petition of Tax Court*—(a) *Effect of petition of Tax Court.* If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, gift, and chapter 42 taxes) and if the taxpayer files a petition with the Tax Court within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 42 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary or his delegate has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

* * * * *

(b) *Overpayment determined by Tax Court*—(1) *Jurisdiction to determine.* Except as provided by paragraph (2) and by section 7463, if the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, of gift tax for the same calendar year or calendar quarter, of estate tax in respect of the taxable estate of the same decedent, or of tax imposed by chapter 42 with respect to any act (or failure to act) to which such petition relates, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court has become final, be credited or refunded to the taxpayer.

* * * * *

[Sec. 6512 as amended by sec. 4, Act of Oct. 23, 1962 (Public Law 87-870, 76 Stat. 1161); secs. 101(j), 960(b), Tax Reform Act 1969 (83 Stat. 526, 734); sec. 102(d)(9), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1842)]

PAR. 104. Section 301.6512-1 is amended by revising paragraph (a)(1), and by revising so much of paragraph (b) as precedes subparagraph (1) thereof. These revised provisions read as follows:

§ 301.6512-1 Limitations in case of petition to Tax Court.

(a) *Effect of petition to Tax Court*—(1) *General rule.* If a person, having a right to file a petition with the Tax Court with respect to a deficiency in income, estate, or gift tax imposed by subtitle A or B of the Code, has filed such petition within the time prescribed in section 6213(a), no credit or refund of income tax for the same taxable year, or of gift tax for the same calendar year or calendar quarter, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, shall be allowed or made, and no suit in any court for the recovery of any part of such tax shall be instituted by the taxpayer, except as to items set forth in subparagraph (2) of this paragraph.

* * * * *

(b) *Overpayment determined by Tax Court.* If the Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income tax for the same taxable year, or of gift tax for the same calendar year or calendar quarter, or of estate tax in respect of the taxable estate of the same decedent, in respect of which a district director (or an assistant regional commissioner, appellate) has determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment determined by the Tax Court shall be credited or refunded to the taxpayer when the decision of the Tax Court has become final. (See section 7481, relating to the date when Tax Court decision becomes final.) No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court determines as part of its decision that such portion was paid—

* * * * *

PAR. 104a. Section 301.6601-1 is amended by revising paragraph (b)(2) to read as follows:

§ 301.6601-1 Interest on underpayments.

* * * * *

(b) *Exceptions to the general rule*— * * *

(2) *Time for payment of estate tax extended or postponed.* In the case of an estate tax—

(i) If an extension of time has been granted, in accordance with section 6161(a)(2) or section 6166, for paying any portion of the tax shown on an estate tax return, or

(ii) If the time for payment of the portion of the tax attributable to a reversionary or remainder interest is extended or postponed in accordance with the provisions of section 6163,

such portion shall bear interest at the rate of 4 percent per annum from the expiration of 9 months (15 months, if the decedent died on or before December 31, 1970) after the date of the decedent's death to the date of the expiration of the period of the extension or postponement or to the date on which payment is received, whichever is earlier. If any part of such portion is paid before the date of the expiration of the period of the extension or postponement, such part shall bear interest only to the date on which payment is received. If, however, the full amount of the tax to which the extension or postponement applies is not paid on or before the date of the expiration of the period of the extension or postponement, the unpaid amount shall bear interest at the rate of 6 percent per annum from the date of the expiration of the period of the extension or postponement to the date on which payment is received.

* * * * *

PAR. 105. The following sections are inserted immediately after § 301.6904.

§ 301.6905 Statutory provisions; discharge of executor from personal liability for decedent's income and gift taxes.

(a) Section 6905 as added by section 101 (e) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

SEC. 6905. *Discharge of executor from personal liability for decedent's income and gift taxes*—(a) *Discharge of liability.* In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) for release from personal liability for such taxes, the Secretary or his delegate may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 1 year after receipt of the application if no notification is made by the Secretary or his delegate before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

(b) *Definition of executor.* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross reference.* For discharge of executor from personal liability fo. taxes imposed under chapter 11, see section 2204.

[Sec. 6905 as added by sec. 101(e), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837)]

(b) Section 101(f) of the Excise, Estate, and Gift Tax Adjustment Act of 1970:

(f) Reduction of Period for Discharge of Executor from Personal Liability.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

[Sec. 101(f), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1838)]

§ 301.6905-1 Discharge of executor from personal liability for decedent's income and gift taxes.

(a) *Discharge of liability.* With respect to decedents dying after December 31, 1970, the executor of a decedent's estate may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091-1 of this chapter, for a determination of the income or gift taxes imposed upon the decedent by subtitle A or by chapter 12 of the Code, and for a discharge of personal liability therefrom. If no estate tax return is required to be filed, then such application should be filed where the decedent's final income tax return is required to be filed. The application must be filed after the return with respect to such income or gift taxes is filed. Within 9 months (1 year with respect to the estate of a decedent dying before January 1, 1974) after receipt of the application, the executor shall be notified of the amount of the income or gift tax and, upon payment thereof, he will be discharged from personal liability for any deficiency in income or gift tax thereafter found to be due. If no such notification is received, the executor is discharged at the end of such 9 month (1 year with respect to the estate of a decedent dying before January 1, 1974) period from personal liability for any deficiency thereafter found to be due. The discharge of the executor under this section from personal liability applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as executor to the extent of the assets of the estate in his possession or control. Further, the discharge does not operate as a release of any part of the property from the lien provided under section 6321 or the special lien provided under subsection (a) or (b) of section 6324.

(b) *Definition of "executor".* For purposes of this section, the term "executor" means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

(c) *Cross reference.* For provisions concerning the discharge of the executor from personal liability for estate taxes imposed by chapter 11 of the Code, see section 2204 and the regulations thereunder.

[FR Doc.72-22292 Filed 12-28-72;8:50 am]

[T.D. 7241]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 53—FOUNDATION EXCISE TAXES

Definitions and Special Rules

On April 3, 1971, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) and the Foundation Excise Tax Regulations (26 CFR Part 53) under sections 507(d)(2) and 4946 of the Internal Revenue Code of 1954 (relating to definitions and special rules for private foundations) to reflect the changes made by section 101 of the Tax Reform Act of 1969 (83 Stat. 492) was published in the FEDERAL REGISTER (36 F.R. 6429). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.507-6, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is changed by revising paragraph (a)(1) and (c)(3). These revised provisions read as set forth below.

PAR. 2. There is inserted immediately before § 53.4946, as set forth in paragraph 2 of the appendix to the notice of proposed rule making, a new heading for subpart G, as set forth below.

PAR. 3. Section 53.4946-1, as set forth in paragraph 2 of the appendix to the notice of proposed rule making, is changed by revising paragraph (a)(1)(ii), by adding new subparagraphs (5), (6), (7), and (8) to paragraph (a), and by revising paragraphs (d)(1) and (f). These amended and added provisions read as set forth below.

(Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: December 26, 1972.

FREDERICK W. HICKMAN,
Assistant Secretary of the Treasury.

In order to provide Income Tax Regulations (26 CFR Part 1) and Foundation Excise Tax Regulations (26 CFR Part 53) under sections 507(d)(2) and 4946 of the Internal Revenue Code of 1954 as added by the Tax Reform Act of 1969 (83 Stat. 515), there are added the following regulations. In addition, temporary Treasury regulations §§ 143.4