



May 8, 2017

Laurie E. Brimmer
Internal Revenue Service
Room 6526
1111 Constitution Avenue NW
Washington, DC 20224

Re: Notice and Request for Comments Regarding Form 709 (Apr. 24, 2017)

Dear Ms. Brimmer:

I am a CPA and have been practicing public accounting since 1980. I have been preparing gift tax returns for 22 years, and I review the gift tax returns that are prepared in my office (approximately 70 per year).

I respectfully submit the following three suggestions:

- 1) Suggestion to eliminate the requirement to report transfers of entire-interest charitable gifts.
- 2) Suggestion to modify the requirement for gifts to trusts to give a brief description of the terms of the trust or attach a copy of the trust agreement to the 709.
- 3) Use of automated collection techniques or other forms of information technology.

My suggestions are discussed in more detail below and are in response to:

- whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility,
- ways to enhance the quality, utility, and clarity of the information to be collected, and
- ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Suggestion to eliminate the requirement to report transfers of entire-interest charitable gifts

Since the issuance of Treas. Regs. Sec. 301.6501(c)-1(f)(2) ("Adequate Disclosure Rules"), my firm has been mindful of the requirement that all gifts be adequately disclosed. This includes reporting gifts to charities, including those that are transfers of the taxpayer's entire interest. The 2016 Form 709 instructions page 2 states under the heading "Gifts to Charities", "If you are required to file a return to report noncharitable gifts and you made gifts to charities, you must include all of your gifts to charities on the return."

This requirement creates a burden for our clients, since it requires that they prepare a list for us of the names and addresses of charities and the dates and amounts of their contributions. It also increases the fees that they must pay us to report this on their gift tax returns. When asked by our clients why

they must report their charitable gifts, our only explanation is to state, "It is required by the 709 instructions".

I have had discussions on this topic with individuals in IRS Chief Counsel Office and with attorneys specializing in gift and estate tax law, and I believe that there is no purpose for having to report all gifts to charities (rather than just partial-interest gifts to charities) on the 709. Gifts to charities are subtracted in calculating taxable gifts, so there is no tax effect in reporting them. This is similar to not being required to report gifts to your spouse, which generally would also get subtracted and would have no effect on taxable gifts.

The Disclosure, Privacy Act, and Paperwork Reduction Act Notice states that, "We ask for the information on the form to carry out the Internal Revenue laws of the United States. We need the information to figure and collect the right amount of tax." The Paperwork Reduction Act (PRA) Section 3501 states,"

The purposes of this subchapter are to--

- (1) Minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;
- (2) Ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

I believe that the requirement to report all gifts to charities is not necessary for properly enforcing the applicable Internal Revenue laws and the disclosure of such information does not enable the IRS to determine and collect the right amount of tax. It does not comply with the PRA purpose of "minimizing paperwork burden for individuals" and "ensuring the greatest possible public benefit from and maximize the utility of information" collected by the Federal Government.

Therefore, I respectfully suggest that the IRS eliminate the requirement to report charitable gifts (other than partial interest charitable gifts), which currently appears in the Form 709 instructions.

Suggestion to modify the requirement for gifts to trusts to give a brief description of the terms of the trust or attach a copy of the trust agreement to the 709

Page 5 of the 2016 Form 709 instructions under the heading **Adequate Disclosure** states, "In general, a gift will be considered adequately disclosed if the return or statement includes the following: If the property is transferred in trust, the trust's EIN and a brief description of the terms of the trust (or a copy of the trust instrument in lieu of the description)." The requirement to give a "brief description" is vague and it is not clear exactly what information the IRS is looking for. Many accountants and taxpayers attach a copy of the trust agreement to the 709. Most trust agreements are 20-50 pages long. This creates extremely large paper-filed gift tax returns. We have clients who make gifts to two to three different trusts each year and their gift tax returns are over 100 pages long every year! These returns:

- are a burden to the environment because they use a large amount of paper.

Laurie E. Brimmer
Internal Revenue Service
May 8, 2017
Page 3 of 3

- create a storage burden for preparers and taxpayers who have to keep copies of these returns for their files,
- are an expense burden for taxpayers who have to pay for the postage to mail these large returns.

My suggestion is that the Form 709 instructions should itemize the specific information that the IRS is looking for from the trust agreement so that any preparer or taxpayer could list those specific items in the description of the gift and there would be no need to prepare an abstract or attach the trust agreement. For example, the instructions could say, "If the property is transferred in trust, the trust's EIN, the names of the trustees, the date the trust was created, and the names or class of people who are beneficiaries".

Use of automated collection techniques or other forms of information technology

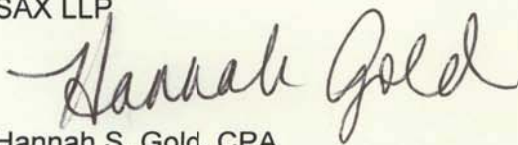
As I stated above, the gift tax return is a paper-filed return and there are often many pages of attachments which create gift tax returns that are hundreds of pages long. These attachments include trust agreements, property appraisals, and business valuations. I listed above the burdens that such large returns cause to the environment, the taxpayers, and the tax preparers. My suggestion is to begin the e-filing of the 709 and the electronic submission of the attachments. If the e-filing of the 709 is not yet possible, then perhaps just the electronic submission of the attachments is possible.

Thanks you for your consideration.

Please acknowledge receipt of this letter by indicating the date received on the enclosed "COPY" and by returning it to the undersigned in the envelope provided.

Very truly yours,

SAX LLP



Hannah S. Gold, CPA

HSG:dm
Enclosure(s)