FEDERAL ESTATE TAX

Note: If total value of all of D's assets including insurance on D's life and D's retirement benefits is less than the applicable exclusion amount (Item 26.21 of MIL) and D had no history of making taxable gifts, a federal estate tax return is probably unnecessary. Regardless, the surviving spouse may file an estate tax return, even if the estate is nontaxable, to elect portability of the Deceased Spousal Unused Exclusion (DSUE) amount. See Special Instruction 80—Federal Estate Tax.

WARNING: Sections 2701 through 2704 of the Internal Revenue Code were enacted in an attempt to halt the use of "estate freezes." Not surprisingly, the changes are broadly worded and vague, and there are many uncertainties. All intrafamily transactions must be scrutinized in light of those provisions. There are too many variables for coverage in this System.

Pursuant to Pub. L. No. 115-97, 131 Stat. 2054 (2017), popularly known as the Tax Cuts and Jobs Act of 2017, (1) the gift and estate tax exemption doubles to $10 million and remains indexed for inflation after 2011 and (2) the Act's gift and estate tax provisions apply to estates of decedents who die after December 31, 2017, and before January 1, 2026.

	NA	L	S	DATE	INITIALS
103. Complete Worksheet 6 to determine if IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, must be filed for D's estate.					
104. If IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return is not mandatory, determine whether the executor desires to file the return to elect portability of the Deceased Spousal Unused Exclusion (DSUE) amount. a. If the executor is the surviving spouse, prepare and send Letter 122.					
b. If the executor is *not* the surviving spouse, prepare and send Letter 123.					
c. On receipt of the client's initialed copy indicating whether to elect portability, place in file folder entitled "Federal Estate Tax."					
105. If IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return is neither required nor desired, skip to Item 198 of this Checkplan.					
106. If a return is to be filed, take appropriate action. No Checkplan, Furnished Forms, or specific instructions for preparing IRS Form 706 are included in this System.					

	NA	L	S	DATE	INITIALS
107. If a return is filed and IRS closing letter is received, file it with clerk of court.					

108. - 197. (Reserved)