

**INSTRUCTIONS FOR TENNESSEE INHERITANCE TAX RETURN**  
(for estates of decedents dying on or after January 1, 1990)

**GENERAL INSTRUCTIONS**

**The Inheritance Tax Statute.**

The Tennessee Inheritance Tax is imposed by Part 3 of Chapter 8, Title 67, Tennessee Code Annotated (See the new codification for Inheritance Tax in Volume 12). An Inheritance tax is a tax upon the privilege of receiving property by transfer because of a decedent's death.

**Filing Requirement.**

If the gross estate of a resident decedent is less than the maximum single exemption allowed by T.C.A. Section 67-8-316, the representative of the estate is not required to file an Inheritance Tax Return. If the gross estate of a resident decedent is greater than the exemption an inheritance tax return must be filed by the personal representative of the estate.

**Place for filing.**

The return must be filed with the Tennessee Department of Revenue, Andrew Jackson State Office Building, 500 Deaderick Street, Nashville, Tennessee 37242-0600. You may call (615) 532-6438 if you have any questions.

**Time for filing.**

The return is due nine (9) months after the date of the decedent's death, unless an extension of time is granted by the Department of Revenue pursuant to T.C.A. Section 67-8-409.

**Payment of tax.**

The tax is due nine (9) months after the date of decedent's death and must be paid within such period unless an extension of time for payment thereof has been granted or permission for payment of tax in installments has been granted. Check or money order in payment of the tax should be made payable to "Tennessee Department of Revenue".

**Completion of return.**

The first four pages of the Inheritance Tax return are to be completed in its entirety. If a Federal Estate Tax return (Form 706) was filed attach copies of schedules A thru K, M & O, in lieu of the corresponding schedules.

If you did not file a federal return the following steps are recommended.

- (1) Complete Schedules A thru K, M and O.
- (2) Place the total of each schedule on the applicable line of the Recapitulation Schedule.
- (3) Enter the statutory exemption on the appropriate line on the Recapitulation Schedule. Subtract the exemption to determine the Net Taxable Estate.
- (4) Compute the Tax. See rate schedule at "Computation of Tax," and enter the amount on the appropriate lines of the return.
- (5) Complete General Information.
- (6) If a Federal Estate Tax Return (Form 706) is filed, it is recommended that a complete copy is submitted with

the Inheritance Tax return.

When completed, the return must be permanently fastened together with all sheets in proper order. Any suitable type of paper fastener may be utilized for this purpose, Ordinary wire staples are recommended for a return of average size. All pages provided must be included.

If there is insufficient space for all entries under any of the printed schedules, additional sheets of the same size may be inserted in the proper order of the return. All information requested must be furnished. The questions on each schedule must be answered; if the decedent owned no property of a class specified for the schedule, the word "None" should be written across the schedule.

The items should be numbered on each schedule; a separate enumeration should be used for *each* schedule, and the total for each schedule should be shown at the bottom.

The filing of this form will not be considered the filing of the complete return as required by the statute unless all the information indicated thereon is set forth.

Rounding off to whole-dollar amounts-- if you wish, the monetary items on your return may be shown as whole-dollar amounts. This means you eliminate any amount less than fifty (50) cents and increase any amounts fifty (50) cents through ninety-nine (99) cents to the next higher dollar.

**Signature and verification.**

If there is more than one personal representative, all must verify and sign the return. Such persons are responsible for the return filed and incur liability for taxes under T.C.A. Section 67-8-423. If there is no executor or administrator appointed, qualified and acting in Tennessee, then the person in possession must verify and sign the return.

**Supplemental Documents.**

If the decedent died testate, file a copy of the will with the return. Other supplemental documents should be submitted. Examples include Form 712 for insurance policies, trust and power of appointment instruments, and other documents referred to in the instructions for each schedule. If you do not file these documents with the return, the processing of the return will be delayed. All such supplemental information must be attached at the end of the completed form, *not* intermingled with individual schedules.

**Valuation.**

Generally, all of decedent's property, real and personal, is included on the inheritance tax return at its full and true value at the date of death or at the alternate valuation date. (See Alternate Valuation discussed later). Real property used in farming or other closely held businesses may be eligible for a reduced valuation for estate tax purposes. (See Special Use Valuation discussed later).

**Alternate Valuation**

The executor may elect to use the alternate valuation method. The election must be made on the first page of the return within 9 months of the date of death or within a timely

requested extension of time granted for filing the return. In general, the object of T.C.A. Section 67-8-412(b) is to permit a reduction of the tax liability if the total value of the estate has decreased. Once the election is made, it is irrevocable, and it applies to all of the assets in the estate. It cannot be used for only part of the assets.

If the alternate valuation method is elected, all property in the estate must be valued according to the following rules:

- (1) Property distributed, sold, exchanged, or otherwise disposed of within six (6) months after decedent's death, is valued as of the date of such distribution, sale, exchange, or other disposition;
- (2) Property not distributed, sold, exchanged, or otherwise disposed of is valued as of the date six (6) months after decedent's death;
- (3) Any property, interest, or estate "affected by a mere lapse of time" is valued as of date of decedent's death. However this is adjusted for any difference in value not due to mere lapse of time as of the date 6 months after decedent's death, or as of the date of disposition, whichever first occurs.

Interest accrued to the date of decedent's death on bonds, notes and other interest-bearing obligations constitutes property of the gross estate on the date of his death and is also to be included in the alternate valuation. Rent accrued to the date of the decedent's death on realty or personalty constitutes property of the gross estate on the date of death and is also to be included in the alternate valuation.

Outstanding dividends declared to stockholders or record on or before date of the decedent's death constitute property of the gross estate on the date of death and are also to be included in the alternate valuation. Ordinary dividends declared to stockholders of record after the date of decedent's death do not constitute property of the gross estate at the date of death and are also to be excluded from the alternate valuation. If dividends are declared to stockholders of record after the date of decedent's death with the effect the shares of stock at the subsequent valuation date do not reasonably represent the same property existing at the date of death, such dividends are to be included in the alternate valuation.

In every case where the election is exercised, the return must include (1) an itemized description of all property included in the gross estate on the date of decedent's death, (2) an itemized disclosure of all distributions, sales, exchanges, and other dispositions of such property during the six (6) month period after the decedent's death, together with the dates thereof, and (3) the value of each item of property determined as previously explained. The foregoing information must be shown under the appropriate columns of each schedule. Under the column headed "Description" a brief statement for each item must be shown explaining the status or disposition governing the alternate valuation date, such as, "Not disposed of within six (6) months following death," "Distributed," "Sold," "Bond paid on maturity," etc. Each item of principal and includible income must be entered separately. Under the heading "Alternate Value" the amount of the principal and the amount of includible income must be separately shown. In the case of any interest or estate, the value of which is affected by mere lapse of

time, such as patents, leaseholds, estates for the life of another, or remainder interest, the value shown under the heading "Alternate Value" must be the adjusted value, i.e., the value as of the date of death with an adjustment reflecting any difference in its value as of the later date not due to mere lapse of time. Under the heading, "Value at date of death" the amount of the principal and the amount of includible income as of the date of death must be entered separately.

All of the information indicated on the Inheritance Tax Return must be supplied. Statements as to distributions, sales, exchanges, and other dispositions of the property within the six (6) month period after the decedent's death must be supported by evidence. If the court issues an order of distribution during that period, a copy of the order must be submitted as part of the evidence. The commissioner may require the submission of such additional evidence as is deemed necessary.

### **Special use valuation.**

You may elect the valuation authorized by T.C.A. Section 67-8-412(c) by checking "yes" in the appropriate box on the face of the return and completing and attaching Schedule A-Worksheet for Property Valued for Special Use Purpose and its required attachments. The worksheet and its additional statements must be filed with this form for this election to be valid. See "Instructions for Worksheet-Property Valued for Special Use Purpose" discussed later.

## **INSTRUCTIONS FOR RECAPITULATION**

### **Gross estate.**

Lines 1 through 9- An entry must be made on each of lines 1 through 9. If the gross estate does not contain any assets of the type specified by a given line, enter "-0-" on that line. An entry of "-0-" on any of lines 1 through 9 is a statement by the executor, made under penalties of perjury, that the gross estate does not contain any includible assets covered by that line. Do not enter any amounts in the "Alternate Value" column unless you elected alternate valuation.

### **Deductions.**

Lines 11 through 14- Enter here the total for each corresponding schedule. If there is no deduction enter "-0-" on that line.

### **Statutory exemption.**

For the purpose of determining the net taxable estate, there shall be allowed against the estate a maximum single exemption. In the case of resident decedent's dying between January 1, 2006 and December 31, 2012 the allowable exemption is \$1,000,000; in 2013 the allowable exemption is \$1,250,000; in 2014 the allowable exemption is \$2,000,000 and in 2015 the allowable exemption is \$5,000,000. In 2016 and thereafter no inheritance tax is imposed.

**Computation of tax.**

The rate schedule is given below:

Column 1 TAXABLE AMOUNT	Column 2 TAXABLE AMOUNT	Column 3 TAX ON AMOUNT IN COLUMN 1	Column 4 RATE OF TAX ON EXCESS OVER AMOUNT IN COLUMN 1
OVER	NOT OVER		(PERCENT)
	\$ 40,000.00		5.5
\$ 40,000.00	\$240,000.00	\$ 2,200.00	6.5
\$240,000.00	\$440,000.00	\$15,200.00	7.5
\$440,000.00		\$30,200.00	9.5

**Nonresident Estates**

Tennessee Code Annotated, Section 67-8-303 imposes a tax on a transfer from a non-resident of this state for (a) real property situated within this state, or (b) tangible personal property which has an actual situs within this state.

Deductions which are properly chargeable against the Tennessee property will be allowed.

The statutory exemption for a non-resident estate is apportioned in the ratio that the gross value of the Tennessee estate bears to the value of all property which would have been included in the gross estate if the decedent had been a resident of Tennessee.

**EXAMPLE**

1. Gross Estate Everywhere - Real Property located outside of Tennessee = Gross Estate if decedent was a Tennessee resident
2. Tennessee Gross Estate divided by Gross Estate if decedent was a Tennessee Resident = Percentage
3. Percentage multiplied by statutory exemption = Non-Resident Statutory Exemption
4. Gross Tennessee Estate - Deductions = Taxable Tennessee Estate
5. Taxable Tennessee Estate - Non-Resident Statutory Exemption = NET TAXABLE ESTATE

**Tennessee estate tax.**

The Tennessee Estate Tax is imposed by Part 2 of Chapter 8, Title 67, Tennessee Code Annotated. The purpose of the Tennessee Estate Tax is to supplement the inheritance tax to assure the state secures a total tax at least equal to the "State Death Tax Credit" allowed by the federal government on the Federal Estate Tax Return pursuant to I.R.C. Section 2011. Thus, the Tennessee Estate Tax is equal to the amount by which the credit against the federal estate tax exceeds the inheritance tax. If the "State Death Tax Credit" (SDTC) exceeds the inheritance tax, the difference is the Tennessee Estate Tax. The amount of the Tennessee Estate Tax must be entered in the Computation of Tax on page 1 of the return.

In the case of a non-resident owning real property or tangible personal property in Tennessee or a resident decedent with real property or tangible personal property outside Tennessee the available SDTC is computed pursuant to calculation 1. Calculation 2 should be used when inheritance tax has been paid in multiple states (verification of tax paid must be provided).

**CALCULATION 1**

$$\begin{array}{l} \text{Gross Tn. Estate} \\ \text{Gross Federal Estate} \end{array} \quad \begin{array}{l} \text{Available SDTC} = \text{Tn. Estate Tax} \\ \text{X} \end{array}$$

**CALCULATION 2**

Step 1

State Death Tax credit - All inheritance tax paid = amount to be apportioned

Step 2

$$\begin{array}{l} \text{Gross Tn. Estate} \\ \text{Gross Federal Estate} \end{array} \quad \text{X amount to be apportioned} = \text{Tn. Estate Tax}$$

**Credit for previously paid inheritance tax.**

If property within this decedent's estate was subject to and incurred an inheritance tax imposed by this state within the five (5) years immediately preceding decedent's death, a credit is allowable as to a portion of the actual amount of tax previously paid against the amount of tax owed on the present transfer.

The credit for previously paid tax shall be the lesser of the result of the following two (2) calculations and is to be entered in the designated space under "Computation of Tax." A computation of the credit must be attached to the return.

**CALCULATION 1**

$$\begin{array}{l} \text{Total tax paid on} \\ \text{previous estate exclusive} \\ \text{of interest and penalty} \end{array} \quad \text{X} \quad \begin{array}{l} \text{Previous estate's value} \\ \text{of property transferred} \\ \text{to present estate} \\ \hline \text{net estate of} \\ \text{previous estate} \end{array}$$

**CALCULATION 2**

$$\begin{array}{l} \text{Total tax due on} \\ \text{present estate exclusive} \\ \text{of interest and penalty} \end{array} \quad \text{X} \quad \begin{array}{l} \text{Previous estate's value} \\ \text{of property transferred} \\ \text{to present estate} \\ \hline \text{net estate of} \\ \text{present estate} \end{array}$$

**Credit for previously paid gift tax.**

A credit is allowable only against the inheritance tax payable on the decedent's entire estate, in an amount equal to the sum of all Tennessee gift taxes paid by the decedent or the decedent's estate for transfers made within the three (3) years immediately preceding decedent's death which have been included in the estate.

This credit for previously paid gift taxes is to be entered in the designated space under "Computation of Tax." A computation of the credit must be attached to the return.

**Credit for power of appointment.**

A credit is allowable for certain property included in this return because of decedent possessing a general power of appointment over the property. See the instructions for Schedule H. Enter the credit amount in the designated space under "Computation of Tax." A computation of the credit must be attached to the return. This credit is not allowable for the transfer of any property for which credit is allowable for previously paid inheritance tax. Also, this credit does not

impair or reduce Tennessee Estate Tax due under T.C.A. Section 67-8-201, et. seq.

### **Interest.**

All taxes not paid within nine (9) months after the death of the decedent will bear interest at the statutory rate per annum, which interest cannot be waived or excused.

### **Penalty.**

In addition to interest a penalty will accrue at the rate of 5% per month or part thereof, to a maximum of 25%, for failure to *either* file the return or pay the tax, but not both.

In no event shall the total penalty for failure to pay the tax shown to be due on the return as filed, and timely pay additional assessed tax within 30 days, exceed 25% of the total tax.

## **INSTRUCTIONS FOR GENERAL INFORMATION SCHEDULE**

Furnish all information requested in items one (1) through seven (7).

### **Item 7**

**Name.-** Enter the name of each individual, trust or estate who received (or will receive) benefits from the estate directly as an heir, donee or devisee, or indirectly as beneficiary of an annuity or insurance policy, as shareholder of a corporation or partner of a partnership.

**Amount.-** Enter the amount actually distributed (or to be distributed) to each beneficiary including transfers during decedent's life from Schedule G required to be included in the gross estate.

**Disclaimers.-** If property passes to a person by result of a qualified disclaimer, a copy of the disclaimer must be attached to the return. The copy of the disclaimer must clearly show the date(s) filed and recorded.

## **INSTRUCTIONS FOR SCHEDULE A.- REAL ESTATE**

Real estate should be so described and identified that upon investigation by a tax auditor it may be readily located for inspection and valuation. For each parcel of real estate there should be given the area and, if the parcel is improved, a short statement of the character of the improvements. For city or town property, state the street and number, ward, subdivision, block and lot, etc. For rural property, state the acreage as well as the map and parcel numbers for the county within which the property is located.

If any item of real estate is subject to a mortgage with respect to which the decedent's estate is liable (i.e., if the indebtedness is enforceable against other property of the estate not subject to such mortgage, or if the decedent was personally liable therefor), the full value of such property must be extended in the value column. The amount of the mortgage in any such case should be shown under "Description" in this schedule, and deduction taken therefor under Schedule K. If, however, the decedent's estate is not liable for the amount of the mortgage, only the value of the equity of redemption (or value of the property less the indebtedness) need be extended in the value column as part of the

gross estate, in which case no deduction for the indebtedness is allowable under Schedule K.

Real property which the decedent has contracted to purchase should be listed in this schedule. The full value of the property and not the equity must be extended in the value column. The unpaid portion of the purchase price should be deducted under Schedule K of this return.

The basis for the return values should be stated. If based upon appraisals, copies of such appraisals, together with an explanation of the basis of the appraisals, should be attached to the return.

The "assessed value for taxation" should be the 100% value shown on the records of the county tax assessor for purposes of the county property tax.

## **INSTRUCTIONS FOR WORKSHEET - PROPERTY VALUED FOR SPECIAL USE PURPOSE.**

The personal representative of an estate may elect to value qualified real property included in decedent's estate and devoted to farming, or used in a closely-held business, on the basis of its actual use for these purposes. Once made, the election is irrevocable. The election must be made on the first inheritance tax return filed. The return does not have to be filed on time for the election to apply. The personal representative, and any other person, shall be subject to all conditions and limitations set out in I.R.C. Section 2032A with the exception of the provisions relative to material participation. In addition, a lien shall arise in favor of the state comparable to that arising in favor of the United States under I.R.C. Section 6324B, and the lien shall be subject to the filing and priority provisions of T.C.A. Section 67-1-1403.

If the election is made, both a full and true valuation at the time of decedent's death and the special use valuation of the subject property are required. The maximum valuation differential allowable is \$750,000. To make the election, the personal representative must:

- (1) Check "yes" in the "Election of Special Use Valuation" box on the face of the return.
- (2) Sign the tax return on front page.
- (3) Prepare the "Worksheet Property Valued for Special Use" in full.
- (4) Attach the following documents to the tax return:
  - (a) Both the full and true valuation and the special use valuation appraisals.
  - (b) A Notice of Election signed by the personal representative.
  - (c) Agreement to Special Use Valuation executed by all parties who have any interest in the property being valued based on its qualified use.

The Notice of Election and the Agreement to Special Use Valuation must set forth certain data. The data required for the Notice of Election is set out in I.R.S. Regulation 20.2032A-8(a)(3). The data required for the Agreement to Special Use Valuation is generally set out at I.R.S. Regulation 20.2032A-8(c). An Agreement form may be obtained by calling (615) 741-4465.

If a personal representative makes a timely election and substantially complies with the federal regulations pertaining to the election, the Notice of Election or Agreement to

Special Use Valuation may be subsequently modified if:

- (1) The Notice of Election or Agreement to Special Use Valuation, as filed, does not contain all required information, or
- (2) The Agreement to Special Use Valuation, as filed, does not include the signature of any person required to enter into the agreement.

The personal representative will have a reasonable period of time, but not more than 90 days, after notification of these failures to provide such information or signatures. Substantial compliance with the requirements is not accomplished if the personal representative only checks the applicable election box on the front page of the return. Both the Notice of Election and the agreement must be included with the return. Types of information that may be supplied after the initial filing are social security numbers and addresses of qualified heirs, written appraisals obtained prior to filing the return, legal description of property, and the designation of an agent.

## **INSTRUCTIONS FOR SCHEDULE B.- STOCKS AND BONDS**

### **Description.**

Description of stocks must indicate number of shares, whether common or preferred, issue, price per share, and exact name of corporation. If not listed on a stock exchange, the address of the principal business office, and the state in which incorporated must be furnished. If listed, state principal exchange upon which sold. Description of bonds must include quantity and denomination, name of obligor, kind of bond, date of maturity, interest rate, and interest-due dates. State the exchange upon which listed, or if unlisted the principal business office and address of the company.

### **Valuation.**

In valuing stocks and bonds listed on a stock exchange, the mean between the high and low quoted sales prices on the valuation date is the full and true value per share or bond. If the security was listed on more than one exchange, the records of the exchange where the security is principally dealt should be used. The personal representative should observe care to consult accurate records to obtain values of the valuation date.

If there were no sales on the valuation date, but there were sales on dates within a reasonable period before and after the valuation date, the full and true value is determined as follows: Determine a weighted average of the mean between the high and low prices on the nearest date before the valuation date, and the mean between the high and low prices on the nearest date after the valuation. The average must be weighted inversely by the respective numbers of trading days between the sales dates and the valuation date. For example, assume the nearest sales took place two trading days before the valuation date at a mean sales price of \$10 per share and three trading days after the valuation date at a mean sales price of \$15 per share. The full and true value is \$12 per share determined as follows:

$$\frac{(3 \times \$10) + (2 \times \$15)}{5} = \$12$$

If no sales occurred within a reasonable period before and after the valuation date, the full and true value may be determined by taking the mean between bona fide bid and ask prices on the valuation date. If bid and ask prices on the valuation date are not available but are available for dates within a reasonable period before and after the valuation date, the valuation method described above may be used. If no actual sales prices or bona fide bid and ask prices are available on a date within a reasonable period before the valuation date, but are available on a date within a reasonable period after the valuation date, or vice versa, then the mean between the highest and lowest available sale prices or bid and asked prices on that date may be taken as the full and true value.

In valuing stocks and bonds not listed on an exchange, but which are dealt in through brokers or which have a market, the full and true value shall be the mean between the high and low sales prices on the valuation date. If there were no sales on the valuation date, the full and true value is determined in the same manner as previously described if sales occurred within a reasonable time before and/or after the valuation date. If quotations are obtained from brokers or evidence as to the sale of securities is obtained from the issuing companies, copies of the letters furnishing such quotations or evidence of sale must be attached to the return.

### **Flower bonds**

So-called "flower bonds" are marketable United States Treasury Bonds which can be redeemed by a personal representative at par value plus accrued interest to pay federal estate taxes. Such bonds are to be valued at par value to the extent used to discharge federal estate tax liability if they are acquired after May 30, 1985. If acquired prior to May 31, 1985, such bonds are valued at the quoted "market" value even though used to pay federal estate taxes. In listing the bonds in the description column of the schedule, the date of purchase must be disclosed. If part but not all of the bonds were used to pay federal estate tax, those bonds used to pay the tax must be separately listed.

### **Closely-Held Stocks.**

Attach the following documents to the return: (1) Balance Sheets and Income Statements for five accounting years preceding the date of death, (2) statement of the personal representative as to all factors considered in determining the value, and (3) any appraisals by professional appraisers in determining value.

### **Accrued Dividends.**

Dividends payable to decedent or his estate by reason of the fact that on or before the date of decedent's death he was a stockholder of record must be included in the gross estate as separate items. Dividends declared on shares of stock prior to the death of the decedent but payable to the stockholders of record on a date after death are not included in the gross estate. Where the stock is being traded on an exchange and is selling ex-dividend on the date of decedent's death the amount of the dividend should not be included in the gross estate as a separate item but should be added to

the ex-dividend quotation in determining the fair market value of the stock as of the date of decedent's death. If decedent died on a weekend, and the stock began selling ex-dividend on the following trading day, determine the weighted average by adding the dividend to the mean of the ex-dividend quotation.

#### **Common trust funds.**

For common trust funds, the property to be valued is the participating interest in the fund. A bank administering a common trust fund must value the assets of the fund at least quarterly. If the valuation date for the estate is not the same as the bank evaluation date, the full and true value must be determined using the same method as is used for stocks and bonds. If it is necessary to use the weighted average method, the average must be weighted inversely by the respective number of days between the bank valuation dates and the valuation date for the estate.

#### **Mutual Fund shares.**

The full and true value of a share in an open-end investment company (commonly known as a mutual fund) is the redemption (bid) price on the valuation date. If there is no quoted redemption (bid) price for the valuation date, the full and true value per share is the last public redemption price quoted for the first day before the valuation date.

### **INSTRUCTIONS FOR SCHEDULE C.- CASH, NOTES, MORTGAGES**

The classes of property under this schedule should be listed separately in the order given.

#### **Cash in bank.**

State name of bank and address, amount in each bank, account number, nature of account, and show whether checking, savings, time deposit, etc. If statements are obtained from banks they should be retained for inspection by the Department of Revenue.

#### **Cash in possession.**

List separately from bank deposits.

#### **Notes and Mortgages.**

State (1) face value and unpaid balance, (2) date of mortgage, (3) date of maturity, (4) name of maker, (5) property mortgaged, and (6) interest dates and rate of interest. For example: Bond and mortgage for \$9,000, unpaid balance \$6,000, dated January 1, 1968. John Doe to Richard Roe: premises 22 Lake Street, Nashville, Tennessee, due January 1, 1971, payable at 6 percent interest per annum on January 1 and July 1.

The full and true value of a note, secured or unsecured is presumed to be the unpaid principal plus accrued interest to the date of death unless the personal representative establishes a lower value. If a lower value is asserted by the personal representative, satisfactory evidence must be submitted to substantiate the value. The accrued interest must be separately stated on the return.

#### **Unpaid interest.**

Interest accrued on savings certificates, accounts, notes and mortgages is includible in the gross estate.

#### **Contract by decedent to sell land.**

Show name of buyer, date of contract, description of property, sale price, initial payments, amounts of installment payments, unpaid balance of principal, interest rate, and accrued interest.

### **INSTRUCTIONS FOR SCHEDULE D- INSURANCE ON DECEDENT'S LIFE**

#### **Insurance.**

All insurance on decedent's life receivable by or for the benefit of the estate and insurance on decedent's life receivable by other beneficiaries must be included in the gross estate. The term "insurance" refers to life insurance of every description, including death benefits paid by fraternal beneficial societies operating under the lodge system.

If proceeds of life insurance are not includible in the gross estate under the provisions discussed in this section, they may be includible under another provision.

#### **Insurance in favor of the estate.**

The full amount of the proceeds of insurance on the life of decedent receivable by the personal representative, or otherwise payable to or for the benefit of the estate, should be included in the gross estate. Insurance in favor of the estate includes insurance effected to provide funds to meet the estate or inheritance tax, and any other taxes, debts, or charges which are enforceable against the estate. The manner in which the policy is drawn is immaterial so long as there is an obligation, legally binding upon the beneficiary, to use the proceeds in payment of such taxes, debts, or charges. The full amount is so includible even though the premiums or other consideration wherewith the insurance was acquired may have been paid by a person other than decedent.

#### **Insurance receivable by beneficiaries other than the estate and insurance with respect to which the decedent possessed incidents of ownership at time of death.**

The proceeds of all insurance on the life of decedent not receivable by or for the benefit of the estate must be included in the gross estate if the decedent possessed at death any of the incidents of ownership, exercisable either alone or in conjunction with any person. Incidents of ownership in a policy include, for example, the right of the insured or his estate to its economic benefits, the power to change the beneficiary, to surrender or cancel the policy, to assign it, to revoke an assignment, to pledge it for a loan, or to obtain from the insured a loan against the surrender value of the policy, etc. A reversionary interest (for example, the proceeds become payable to the insured's estate or payable as he might direct, should the beneficiary predecease him) constitutes an incident of ownership.

### **Execution of Schedule.**

Under "Description" show the name of the insurance company, number of policy, name of beneficiary, face amount of the policy, principal amount of any indebtedness to the insurance company deductible in determining net proceeds, the interest on the foregoing indebtedness accrued to the date of death, and the amounts of accumulated dividends (including interest payable thereon), postmortum dividends, and returned premiums. The value to be entered in the valuation column of Schedule D is the net value.

In addition to the insurance shown on the return as part of the gross estate, complete information must be submitted as to any insurance on the decedent's life which the executor believes is not includible in the gross estate.

### **INSTRUCTIONS FOR SCHEDULE E.- JOINTLY OWNED PROPERTY**

#### **Spouses.**

One-half of the value of qualified joint interest property is includible in the gross estate without regard to contribution furnished by either spouse. The term "qualified joint interest" means any interest in property held by the decedent and spouse as:

- (1) Tenants by the entirety, or
- (2) Joint tenants with right of survivorship, but only if the spouses are the only joint tenants.

Each asset is separately listed in the description column of Part I of the schedule, and the full value is placed in the appropriate valuation column. The total value of all qualified joint interest property is listed at line 1(a). The total value on line 1(a) is then reduced by 50% at line 1(b).

#### **In all other cases:**

The gross estate includes the value of property held jointly at the time of death by decedent and anyone who has the right of survivorship. The full value of the property must be included in Part II, Schedule E unless it can be shown that a part of the property originally belonged to the other tenant or tenants, and was never received or acquired by the other tenant or tenants from decedent for less than an adequate and full consideration in money or money's worth, or unless it can be shown that any part of the property was acquired with consideration originally belonging to the surviving joint tenant or tenants. Where it is shown the property or any part thereof, or any part of the consideration with which the property was purchased, was acquired by the other tenant or tenants from decedent for less than an adequate and full consideration in money or money's worth, there should be omitted only so much of the value of the property as is proportionate to the consideration furnished by such other tenant or tenants.

Where the property was acquired by decedent and another person or persons by gift, bequest, devise, or inheritance as joint tenants, and their interests are not otherwise specific, or fixed by law, then there should be included only such fractional part of the value of the property as is obtained by dividing the full value of the property by the number of joint tenants.

If the personal representative contends less than the

value of the entire property is includible in the gross estate for purposes of the tax, the burden is upon him to show his right to include such lesser value, and in such case he must submit proof of the extent, origin, and nature of the decedent's interest and the interest of decedent's co-tenant or co-tenants.

For each item of property, enter the appropriate letter, A, B, or C, to indicate the name and address of the surviving co-tenant.

### **INSTRUCTIONS FOR SCHEDULE F.- OTHER MISCELLANEOUS PROPERTY**

Under this schedule list all items of the gross estate not reportable under any other schedule such as the following: debts due the decedent, interest in business, insurance on the life of another, claims (including the value of decedent's interest in a claim for refund of income taxes or the amount of the refund actually received), rights, royalties, pensions, leaseholds, judgements, reversionary or remainder interest, shares in trust funds, household goods and personal effects, farm products and growing crops, livestock, farm machinery, automobiles, etc.

When an interest in a partnership or unincorporated business is reportable, submit a statement of assets and liabilities as of the valuation date. Financial statements for five (5) years preceding the date of death must be submitted. Goodwill must be included. In general, the same information should be furnished and the same methods followed as in valuing closely held corporations.

In case of an interest in a trust fund, a copy of the trust instrument must be submitted along with a listing of all assets forming the trust principal.

### **INSTRUCTIONS FOR SCHEDULE G.- TRANSFERS DURING DECEDENT'S LIFE**

The following transfers made by decedent during his/her life, by trust or otherwise, are subject to the tax, and must be included in the gross estate under this schedule. Additionally, any gift made by the decedent's spouse and consented to be treated as a split gift by the decedent will be included on this schedule if the gift was made on or after May 31, 1993.

- (1) All transfers made within three years of decedent's death, excepting those which were:
  - (a) Transfers in the form of bona fide sales for adequate and full consideration in money or money's worth;
  - (b) Transfers which under T.C.A. Section 67-8-104 were considered exempt from the gift tax.

In addition, any Tennessee gift tax paid by decedent or his estate on any gift tax made by decedent or decedent's spouse within three (3) years of the decedent's death must be included in the gross estate.

- (2) A transfer made by decedent taking effect at or after death where possession or enjoyment of the property was obtained only by surviving the decedent.
- (3) Transfers where decedent retained possession or enjoyment of, or the right to the income from, the transferred property.

- (4) Transfers (not otherwise included) whereby decedent retained the right to designate the person or persons who shall possess or enjoy the transferred property, or the income therefrom.
- (5) Transfers subject to any charge, estate or interest, determinable by the death of decedent or at any period ascertainable only by reference to the death of decedent .
- (6) Transfers whereby the enjoyment of the transferred property was subject at decedent's death to any change through the exercise of a power to alter, amend, revoke, or terminate.

In case a transfer, by trust or otherwise, was made by a written instrument, a copy must be filed with the return. The name of the transferee, date and form of transfer, and a complete description of the property should be set forth in this schedule. Each transfer must be valued at the date of gift taking into account the gift tax exemption(s) allowed by T.C.A. Section 67-8-104. An exception exists with respect to insurance on decedent's life, which must be included at the value at the date of death without any reduction for gift tax exemption(s).

**INSTRUCTIONS FOR SCHEDULE H.-  
POWERS OF APPOINTMENT**

**Generally.**

The value of all property over which decedent possessed a general power of appointment at the date of death is includible in the gross estate to the extent such property is taxable for federal estate tax purposes under I.R.C. Section 2041. A power of appointment is a power given to a person permitting that person to make a disposition of the property. Generally, a power of appointment is coupled with the right to receive a part or all the income from the property thereby making the right equivalent to total ownership.

Powers of appointment are classified as general and special. A general power is one where there is no limitation on the donee as to the persons in whose favor the power may be exercised. A special power is one in which the donee can appoint the property only to a person or persons of a limited or specified group.

**Power of appointment - general.**

When a decedent possessed a general power of appointment, the property is includible in the decedent's estate on Schedule H of the return. The property must be described and valued as it would if listed on the return under a schedule for the specific property type. For example, stocks and bonds must be described and valued on Schedule H under the same procedure prescribed for Schedule B if the assets had been owned by decedent directly. Copies of all instruments conferring on decedent any power of appointment must be furnished with the return. Copies of any instrument(s) reflecting the exercise of release of such power(s) must be furnished with the return.

There are two exceptions to the rule for taxation of general powers of appointment as follows:

- (1) A power to consume or invade property for the benefit of the decedent, limited by an ascertainable standard

relating to health, education, support, or maintenance is not a general power of appointment.

- (2) If the power was created prior to October 22, 1942, only the exercise of the power will result in taxability.

**Power of appointment - limited.**

Property under a special limited power of appointment is not taxable. Powers limited by an ascertainable standard are not taxable (see item 1 immediately above). The holder's duty regarding use of the power must be reasonably measurable in terms of his or her needs for health, education or support or any combination of them. The words "support" and "maintenance" are considered synonymous.

A power to use property for the comfort, welfare or happiness of the holder (donee) of the power does not meet the required standard. Such standards are not reasonably measurable; thus, the power is taxable.

**Credit for certain general powers of appointment.**

A credit shall be allowed against the inheritance tax liability imposed for the transfer of property by an unexercised general power of appointment which was irrevocable prior to November 1, 1978, if the property transferred by such power was previously included in the taxable estate of a decedent spouse. The credit shall be calculated, using values reported on the return of the prior estate, by multiplying the ratio of: (a) value of the property transferred by such power, over (b) value of property allocated to Class A beneficiaries by the return of the prior estate, times (c) tax paid by the prior estate on transfers to Class A beneficiaries, as follows:

$$\frac{a}{b} \times c$$

The credit shall not be allowed for the transfer of any property for which the credit pursuant to T.C.A. Section 67-8-317 is allowable. Liability for Tennessee Estate Tax will not be diminished by this credit.

**INSTRUCTIONS FOR SCHEDULE I. - ANNUITIES**

The gross estate includes the value of an annuity or other payment under any form of contract or agreement receivable by any beneficiary by reason of surviving decedent. Only annuities that continue to provide payments to surviving beneficiaries after decedent dies are included in the gross estate. If the annuity payments cease at decedent's death, nothing is includible in decedent's gross estate as nothing is receivable by a surviving beneficiary.

The term "annuity or other payment" refers to one or more payments extending over any period of time. Payments need not be made in equal amounts or at regular intervals. "Contracts or agreements" include any arrangement, understanding, or plan due to decedent's employment including Individual Retirement Accounts, Keogh plans, H.R. 10 plans, and military retirement plans.

Generally, annuities or other payments are taxable for inheritance tax to the same extent they are taxable for federal estate tax purposes under I.R.C. Section 2039. Annuities or other payments paid to an estate or to the Executor



or Administrator of an estate for distribution to the heirs are taxable at *full value*.

## **INSTRUCTIONS FOR SCHEDULE J- MISCELLANEOUS DEDUCTIONS**

### **Taxes.**

The deduction for taxes is limited to taxes owed by decedent or decedent's estate at date of death. Federal taxes owed by decedent or decedent's estate prior to death on income received by the decedent prior to death are deductible, but taxes on income received after death are not deductible.

Unpaid real estate taxes on real estate owned by the decedent and located in Tennessee which were a lien at the date of death are deductible.

Death duties payable to other jurisdictions on intangible personal property includible in the Tennessee gross estate are deductible. However, no deduction is allowable for the payment of federal estate taxes owed or paid upon the estate's federal tax liability.

### **Funeral Expenses.**

*Actual* funeral expenses, and all other amounts reasonably and actually expended, or contracted to be expended, for the purpose of a memorial, or monument to the decedent, if a resident of Tennessee, are deductible.

In itemizing allowable funeral expenses, reimbursements such as benefits payable by the Social Security Administration and Veteran's Administration must be taken into consideration to reflect the net amount of funeral expenses *actually* expended.

### **Administrative Expenses.**

The Executor or Administrator, when filing the return, may deduct his commissions actually paid or which at that time are reasonably expected to be paid. No deduction may be taken if no commissions are to be collected. In case the amount has not been fixed by court decree, the deduction will be allowed on the final audit of the return provided:

- (1) The Commissioner is reasonably satisfied the commissions will be paid;
- (2) the amount entered as a deduction is within the amount allowable by law; and
- (3) It is in accordance with the usually accepted practice in estates of similar size and character.

A bequest or devise to the Executor in lieu of commissions is not deductible. If, however, the decedent by his will fixed the compensation payable to the Executor for services rendered in administration of the estate, deductions may be taken to the extent the amount so fixed does not exceed the compensation allowable by law. If the commissions claimed have not been paid at the time of final audit of the return, the amount deducted must be supported by an affidavit or statement of the Executor under penalties of perjury stating such amount has been agreed upon and will be paid.

Interest on federal estate tax actually paid and allowed by virtue of IRC Sections 6161 or 6166 for a period not to exceed twenty-one (21) months after the date of the dece-

dent's death is deductible as an expense of administration.

### **Attorney's Fees.**

When filing the return there may be deducted attorney fees actually paid or which at the time are reasonably expected to be paid. If on final audit of the return, the fees claimed have not been awarded by the proper court and paid, the deduction will be allowed, provided the Commissioner is reasonably satisfied the amount claimed will be paid and that it does not exceed a reasonable remuneration for the services rendered, taking into account the size and character of the estate and local practice. If the fees claimed have not been paid at the time of the final audit of the return, the amount deducted must be supported by an affidavit, or statement of the executor signed under the penalties of perjury, stating such amount has been agreed upon and will be paid.

When an attorney serves as personal representative of an estate he may either employ other counsel or furnish his own professional services. Where he furnished his own services and saves the estate counsel fees by diligent and official legal services, he should be allowed a greater compensation than ordinarily granted to an executor employing other counsel, but he can be paid only in his capacity as personal representative and not in both capacities.

## **INSTRUCTIONS FOR SCHEDULE K- DEBTS AND MORTGAGES**

### **Debts.**

Debts and mortgages should be separated and "Debts of Decedent" should be itemized first, followed by an itemized listing of mortgages and liens.

Itemize under "Debts of Decedent" only valid debts of decedent owned at the time of death. Any indebtedness secured by a mortgage or other lien upon property of the gross estate should be listed separately under the heading of "Mortgages and Liens." If the amount of debt is disputed or the subject of litigation, only such amount may be deducted as the estate concedes to be a valid claim. If the claim is contested, that fact must be stated.

If the claim against the estate is founded upon a promise or agreement, the deduction is limited to the extent the liability was contracted bona fide and for an adequate and full consideration in money or money's worth. No deduction shall be allowed on account of any claim arising from a contract made by decedent and payable by its terms at or after death unless the claim is supported, in whole or in part, by a valuable consideration, in which event only so much thereof as is equivalent in money value to the money value of the consideration received by the decedent shall be allowed as a deduction, but the remaining portion shall not be. An enforceable claim founded upon a promise or agreement of the decedent to make a contribution or gift (such as a pledge or a subscription) to or for the use of a charitable, public, religious, etc., organization is deductible to the extent such a deduction would be allowable if it had been a bequest.

Enter on the schedule notes unsecured by mortgage or other lien and give full details, including name of payee, face and unpaid balance, date and term of note, interest rate and date to which interest was paid prior to death. Care must be

taken to state the exact nature of the claim as well as the name of the creditor. If the claim is for services rendered over a period of time, state the period covered by the claim.

If the amount of the claim is the unpaid balance due on a contract for the purchase of any property of the gross estate, indicate the schedule and item number where such property is returned. If the claim represents a joint and several liability, the facts must be fully stated and the financial responsibility of the co-obligor explained.

All vouchers or original records should be retained for inspection.

### **Mortgages and Liens.**

Itemize under "Mortgages and Liens" only obligations secured by mortgages or other liens upon property included in the gross estate at the full value thereof, or the value of the property undiminished by the amount of the mortgage or lien. If decedent's estate is liable for the indebtedness secured by such mortgage or lien (i.e., if the indebtedness is enforceable against other property of the estate not subject to such mortgage or lien, or if the decedent was personally liable therefor), the full value of property subject to the mortgage or lien must be included in the gross estate under the appropriate schedule. However, if decedent's estate is not so liable, only the value of the equity of redemption (or value of the property less the amount of such indebtedness) need be included in the gross estate. Where decedent's estate is not liable for a debt secured by a mortgage or lien and the amount of the debt is greater than the value of the property subject to such mortgage or lien, it is not possible to obtain a deduction for the full amount of the debt by entering full value of the property as a part of the gross estate and then deducting the full amount of the debt under this schedule. Notes and other obligations secured by the deposit of collateral, such as stocks, bonds, etc., also should be listed under "Mortgages and Liens."

Identify, by indicating under the column headed "Description" the particular schedule and item number where such property subject to the mortgage or lien is returned under the gross estate.

Show the name and address of the mortgagee, payee, or obligee, and the date and term of the mortgage, note, or other agreement under which the indebtedness is established. Show the face amount, the unpaid balance, the rate of interest, and date to which the interest was paid prior to the decedent's death.

Mortgages upon property included in the gross estate are deductible only to the extent the liability was contracted bona fide and for an adequate and full consideration in money or money's worth.

## **INSTRUCTIONS FOR SCHEDULE M- BEQUESTS, ETC. TO SURVIVING SPOUSE (MARITAL DEDUCTION)**

### **General.**

The marital deduction is a deduction from the gross estate of property included in the gross estate that passes, or has passed, to the surviving spouse. The deduction may

be taken only on property included in the gross estate for Tennessee Inheritance Tax purposes.

In order for property passing to a surviving spouse to qualify for the marital deduction, the spouse must survive decedent and be married to decedent on date of death. The marital deduction is not allowable if decedent was not married to the transferee at the date of death even though the transferee was decedent's spouse at the time of transfer.

### **Property interests listed on Schedule M.**

List on Schedule M only those properties the surviving spouse takes:

- (1) As decedent's legatee, devisee, heir, or donee;
- (2) As decedent's surviving tenant by the entirety or joint tenant;
- (3) As an appointee under decedent's exercise of a power or as a taker in default at decedent's nonexercise of a power;
- (4) As a beneficiary of insurance on decedent's life;
- (5) As the dissenting surviving spouse taking a statutory interest; or
- (6) As a transferee of a transfer made by the decedent at any time.
- (7) Pursuant to a Qualified Terminable Interest Property Election (Discussed later at "Qualified Terminable Interest Property").

### **Property interests not listed on Schedule M.**

Do not list on Schedule M:

- (1) Any property not passing from decedent to the surviving spouse;
- (2) Property not included in the gross estate for Tennessee Inheritance Tax purposes;
- (3) The full value of a property interest for which a deduction was claimed on Schedules J and K. The value of the property interest should be reduced by the deductions claimed with respect to it;
- (4) The full value of a property interest that passes to the surviving spouse subject to a mortgage or other encumbrance or an obligation of the surviving spouse. Include on Schedule M only the net value of the interest after reducing it by the amount of the mortgage or other debt;
- (5) Nondeductible terminable interests (described below);
- (6) Any property interest disclaimed by the surviving spouse.

### **Non deductible terminable interest.**

Certain interests in property passing from a decedent to a surviving spouse are referred to as terminable interests. These are interests that will terminate or fail after the passage of time, or on the occurrence or nonoccurrence of some contingency. Examples are: life estates, annuities, estate for terms of years, and patents. The ownership of a bond, note, or other contractual obligation, which when discharged would not have the effect of an annuity for life or for a term, is not considered to be a terminable interest.

a terminable interest is nondeductible, and should not be entered on Schedule M:

- (1) Another interest in the same property passed from the decedent to some other person for less than adequate and full consideration in money or money's worth; and
- (2) By reason of its passing, the other person or that person's heirs may enjoy part of the property after the termination of the surviving spouse's interest.

This rule applies even though the interest passing from decedent to a person other than the surviving spouse is not included in the gross estate, and regardless of when the interest passes. The rule also applies regardless of whether the surviving spouse's interest and the other person's interest pass from the decedent at the same time.

For example, a decedent devised real property to his wife for life, with remainder to his children. The life interest that passed to the wife does not qualify for the marital deduction since it will terminate at her death and the children will thereafter possess or enjoy the property.

However, if decedent purchased a joint and survivor annuity for himself and his wife who survived him, the value of the survivor's annuity, to the extent it is included in the gross estate, qualifies for the marital deduction because even though the interest will terminate on the wife's death, no one else will possess or enjoy any part of the property.

The marital deduction is not allowed for an interest which decedent directed the executor or a trustee to convert into a terminable interest for the surviving spouse. The marital deduction is not allowed for such an interest even if there was no interest in the property passing to another person and even if the terminable interest would otherwise have been deductible under the life estate and life insurance and annuity payments with powers of appointment exceptions described below.

A property interest passing from decedent to the surviving spouse which may be satisfied out of a group of assets which includes a nondeductible interest will not qualify for the marital deduction to the extent of the value of the nondeductible interest. In determining the allowable marital deduction, the nondeductible interest must be subtracted from the otherwise allowable marital deduction. Example of property interests that may be paid or otherwise satisfied out of any of a group of assets are a bequest of the residue of the decedent's estate, or of a share of the residue, and a cash legacy payable out of the general estate.

### **Life estate with power of appointment in the surviving spouse.**

A property interest, whether or not in trust will be treated as passing to the surviving spouse, and will not be treated as a nondeductible terminable interest if:

- (1) The surviving spouse is entitled for life to all of the income from the entire interest;
- (2) The income is payable annually or at more frequent intervals;
- (3) The surviving spouse has the power, exercisable in favor of the surviving spouse or the estate of the surviving spouse, to appoint the entire interest;

- (4) The power is exercisable by the surviving spouse alone and (whether exercisable by will or during life) in all events; and;
- (5) No part of the entire interest is subject to a power in any other person to appoint any part to any person other than the surviving spouse.

If these five conditions are satisfied only for a specific portion of the entire interest, see the I.R.C. Section 2056(b) regulations for the determination of the part that qualifies for the marital deduction.

### **Life insurance, endowment, or annuity payments, with power of appointment in surviving spouse.**

A property interest consisting of the entire proceeds under a life insurance, endowment, or annuity contract is treated as passing from the decedent to the surviving spouse, and will not be treated as a nondeductible terminable interest if:

- (1) The surviving spouse is entitled to receive the proceeds in installments, or is entitled to interest thereon, with all amounts payable during the life of the spouse, payable only to the surviving spouse;
- (2) The installment or interest payments are payable annually, or more frequently, beginning not later than thirteen months after the decedent's death;
- (3) The surviving spouse has the power, exercisable, in favor of the surviving spouse or of the estate of the surviving spouse, to appoint all amounts payable under the contract;
- (4) The power is exercisable by the surviving spouse alone and (whether exercisable by will or during life) in all events; and
- (5) No part of the amount payable under the contract is subject to a power in any other person to appoint any part to any person other than the surviving spouse.

If these five conditions are satisfied only for a specific portion of the proceeds, see the I.R.C. Section 2056(b) regulations for the determination of the part that qualifies for the marital deduction.

### **Charitable Remainder Trusts.**

An interest in a charitable remainder trust will not be treated as a nondeductible terminable interest if:

- (1) The interest in the trust passes from the decedent to the surviving spouse; and
- (2) The surviving spouse is the only beneficiary of the trust other than charitable organizations described in I.R.C. Section 170(c).

A "charitable remainder trust" is a charitable remainder annuity trust or a charitable remainder unitrust. (See I.R.C. Section 664 for descriptions of these trusts).

### **Qualified terminable interest property (QTIP).**

Generally, marital deduction is not allowed for a life estate passing to a surviving spouse because the spouse's interest terminates when the spouse dies. However, executor may elect the marital deduction for all or part of this interest if it meets the requirements of qualified terminable interest property. The effect of the election is the property

interest will be treated as passing to the surviving spouse and will not be treated as a nondeductible terminable interest. All of the other marital deduction requirements must still be satisfied before the QTIP election is allowable.

You make the QTIP election simply by listing the qualified terminable interest property on Schedule M and deducting its value. You are presumed to have made the QTIP election if you list the property and deduct its value on Schedule M. If you make this election, the surviving spouse's gross estate will include the value of the "qualified terminable interest property." The election is irrevocable.

The term "qualified terminable interest property" means property passing from decedent in which the surviving spouse has qualifying income interest for life. The surviving spouse has a *qualifying interest income for life* if the spouse is entitled to all the income from the property payable annually, or more frequently, and no person has the power to appoint any part of the property to anyone other than the surviving spouse.

An annuity is treated as an income interest which may be a qualifying income interest for life (regardless of whether the property from which the annuity is payable can be separately identified). Income interests granted for a term of years or life estates subject to termination if certain events occur (for example, if the surviving spouse remarries) do not qualify for the QTIP election. If any person, including the surviving spouse, can appoint any part of the property subject to the qualifying income interest to someone other than the surviving spouse, the interest does not qualify for the QTIP election. However, a power exercisable only at or after the death of the spouse does not disqualify the interests for purposes of the QTIP election.

#### **Reduction in the marital deduction.**

The total of the values listed on Schedule M must be reduced by the amount of the federal estate taxes and state or other death taxes which are payable out of, or chargeable against, the property interest listed. Such taxes must be entered on the lines designated 67 and 68 at the bottom of Schedule M. Both items must be supported by an identification and computation of the amounts. The computation must be attached to the return.

If schedule M includes a bequest of the residue or a part of the residue of the decedent's estate, attach a copy of the computation showing how the value of the residue was determined. Include a statement showing:

- (1) The value of all property which is included in the decedent's gross estate but does not pass under the will, such as transfers, jointly owned property which passed to the survivor on decedent's death, and the insurance payable to specific beneficiaries.
- (2) The value of all specific and general legacies or devices, with reference to the applicable clause or paragraph of the decedent's will or codicil. (If legacies are made to each member of a class; for example \$1,000 to each of decedent's employees, only the number in each class and the total value of property received by them need be furnished.)
- (3) The date of birth of all persons, the length of whose lives may affect the value of the residuary interest

passing to the surviving spouse.

- (4) Any other important information such as that relating to any claim to any part of the estate not arising under the will.

#### **Attachments related to the marital deduction.**

If, when you file the return, the court of probate jurisdiction has entered any decree interpreting the will or any of its provisions affecting any of the interests listed on Schedule M or has entered any order of distribution, attach a copy of the decree or order. In addition, other evidence to support the marital deduction claimed may be requested.

#### **INSTRUCTIONS FOR SCHEDULE O - BEQUESTS: PUBLIC, CHARITABLE, RELIGIOUS AND EDUCATIONAL**

Deductions authorized for public, charitable, religious, educational and similar gifts and bequests should be entered on this schedule. If the transfer was made by any written instrument, other than a will, a copy thereof should be submitted with the return. If claim is made under this schedule for deduction of the value of the residue or a portion of the residue passing to charity under decedent's will, there should be submitted a computation showing how the value was determined.

Where a part or all of the residuary estate is bequeathed to a qualifying charity and said residuary estate is charged with the payment of all death taxes, then the value of this charitable bequest is diminished by the amount of inheritance taxes and federal estate tax payable therefrom.

#### **Generation Skipping Transfer Tax.**

The Tennessee Generation-Skipping Transfer Tax is imposed by Part 6 of Chapter 8, Title 67, Tennessee Code Annotate. It is a transfer subject to the tax imposed by Title 26 U.S.C., where the original transferor is a resident of Tennessee at the date of transfer, or the property transferred is real or tangible personal property with an actual situs in Tennessee.

The tax is equal to the allowable credit for state inheritance tax under the federal generation-skipping transfer tax imposed by 26 U.S.C.

If any one of the property transferred is real property in another state or tangible personal property having an actual situs in another state which requires the payment of generation-skipping transfer tax, the tax due shall be apportioned in the same ratio as the value of the property in each state bears to the value of the gross generation-skipping transfer for federal tax purposes.

A duplicate copy of the return reporting a generation-skipping transfer under applicable federal statutes must be filed with the department of revenue on or before the last date prescribed for filing the federal return. The Tennessee tax imposed shall be payable at that time.



Tennessee Department of Revenue  
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