

Session 3: The New Consistent Basis and Value Reporting Rules

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I. INTRODUCTION

On July 31, 2015, President Obama signed into law the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the “Act”) to reauthorize the Highway Trust Fund’s spending authority for another three months. The Act amends the Internal Revenue Code by (i) adding a new subsection, § 1014(f), and (ii) adding new § 6035. Section 1014(f) provides the new “basis consistency” requirement, while § 6035 provides the new reporting requirement. The Act also provides failure-to-file penalties for the reporting requirements and a 20% underpayment penalty for “inconsistent estate basis.”

II. WHY THE NEW RULE?

- a. Congress’ Concern
 - i. Congress took issue with beneficiaries reporting a basis inconsistent with the values claimed on estate tax returns.
 - ii. Congress, therefore, decided to require reporting of the basis of assets received by beneficiaries to the Internal Revenue Service.
 - iii. Congress enacted the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the “Act”).
 - iv. The Act added § 1014(f) (consistent basis requirement) and § 6035 (reporting requirement).
- b. Treasury’s Response
 - i. Notice 2015-57 (August 21, 2015) – delayed the due date for the reporting requirements of § 6035. Statements otherwise due between July 31, 2015 and February 28, 2016, were then due February 29, 2016.

- ii. Preliminary draft of Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent (December 19, 2015). Note that instructions for the form were not published at that time.
- iii. Notice 2016-19 (February 11, 2016) – further delayed the due date for the reporting requirements of § 6035. The new form would have been due by March 31, 2016. The Notice recommended executors prepare statements after the issue of the proposed regulations.
- iv. Proposed regulations (March 4, 2016).
- v. Notice 2016-27 (March 23, 2016) – further delayed the due date for the reporting requirements of § 6035. The Treasury Department and the IRS received numerous comments that executors and other persons that have not had sufficient time to adopt the changes that would enable the filing of accurate and complete Form 8971 and Schedule A. The notice also provided that executors and other persons required to file or furnish a statement under § 6035 before June 30, 2016, need not do so until June 30, 2016.

III. BASIS CONSISTENCY REQUIREMENTS UNDER § 1014(f)

- a. Section 1014(f) provides that the basis of property received from a decedent may not exceed the fair market value of the property as reported on the estate tax return if such value is “final,” or, if such value is not final, then as reported on Form 8971.
- b. This rule applies only to assets that increased the estate tax owed by the estate.¹
- c. Before the enactment of § 1014(f), values reported on an estate tax return created only a rebuttable presumption for income tax basis.

¹ § 1014(f)(2).

- d. Now, if § 1014(f) applies, the transferee of estate assets must accept the date-of-death fair market value reported by the executor for estate tax purposes, whether or not the taxpayer participated in or was even aware of the determination of such value.

IV. REPORTING REQUIREMENTS UNDER § 6035

- a. Who Must File?
 - i. Section 6035(a) provides that an executor of an estate (or any other person) that is required to file an estate tax return under § 6018 must file the return and furnish the statements.
 - ii. Prop. Reg. § 1.6035-1(a)(2) clarifies that there is no requirement to file Form 8971 if the estate tax return is not required to be filed under § 6018 but is filed in any event by the executor. Examples in the regulations include:
 - A. Filing a return for a nontaxable estate to make a portability election;
 - B. Filing a return for a nontaxable estate to make a generation-skipping transfer tax election or exemption allocation; or
 - C. Filing a return for a nontaxable estate to avoid a potential penalty in cases where an increase in an asset value would result in a filing requirement.
- b. When to File?
 - i. The deadline for filing Form 8971 with the IRS and for furnishing its Schedule(s) A to the beneficiaries is the earlier of (i) 30 days after the due date (with extensions) of the estate tax return, or (ii) 30 days after the return is actually filed.

- ii. A supplemental report is generally due 30 days after the date on which the reason for the supplemental return is identified. However, if a supplemental report is required with respect to an asset that has not yet been distributed to a beneficiary from the probate estate or revocable trust, that supplemental Form 8971 and Schedule A will not be due until 30 days after the assets is distributed to the beneficiary.²

- c. Who to Furnish Statements to?
 - i. Each beneficiary who receives property that is included (or required to be included) on an estate tax return that is required to be filed, subject to exceptions for certain assets, is required to receive a Schedule A.

 - ii. Even though the basis consistency rules do not apply to surviving spouses who receive property that qualifies for the marital deduction and to charitable organizations that receive property that qualifies for the charitable deduction, those individuals and organizations are not exempt from the reporting rules under § 6035.

 - iii. The executor must furnish Schedule A to each beneficiary who receives an asset that is reported on Form 8971.³

 - iv. If the executor is also a beneficiary of the estate, he or she is explicitly required to furnish Schedule A to himself or herself.⁴

 - v. For purposes of the requirement to furnish a Schedule A to each “beneficiary,” the term “beneficiary” includes:
 - A. In the case of a life estate, the life tenant;

 - B. In the case of a remainder interest, the remainderman, were the life tenant to die immediately after the decedent; and

² Prop. Reg. § 1.6035-1(e)(4)(ii).

³ Prop. Reg. § 1.6035-1(c)(1).

⁴ Prop. Reg. § 1.6035-1(c)(1).

- C. In the case of a contingent interest, the beneficiary, unless the contingency has occurred before the filing of the Form 8971.⁵
- vi. Non-Individual Beneficiaries
 - A. Section 6035(a)(1) requires each person acquiring any interest in property in the decedent's gross estate to receive information regarding the basis of the property. If a trust is a beneficiary of the estate, does the executor send the basis information to the trustee or the trust beneficiaries or both?
 - B. If the beneficiary is a trust, estate or entity, the executor must furnish the statement to the trustee and executor or entity, respectively.⁶
- vii. Non-Specific Bequests
 - A. Very often, the specific assets to be distributed to the beneficiaries are unknown. Common examples are formula bequests, pecuniary bequests and residuary bequests. The regulations provide that if, by the due date of the Form 8971, the executor has not determined what property will be used to satisfy each beneficiary, all the property that might be used must be reported.⁷
- d. Types of Property
 - i. General
 - A. In general, all property reported or required to be reported on an estate tax return also must be reported on Form 8971 and Schedule A.⁸

⁵ Prop. Reg. § 1.6035-1(c)(1).

⁶ Prop. Reg. § 1.6035-1(c)(2).

⁷ Prop. Reg. § 1.6035-1(c)(3).

⁸ Prop. Reg. § 1.6035-1(b)(1).

- ii. Exemptions
 - A. Cash & Equivalents
 - B. Income in Respect of Decedent
 - C. Tangible Personal Property
 - D. Assets disposed of by the estate in a taxable transaction before the filing of Form 8971⁹

- e. After Discovered/Omitted Property (“Zero Basis Rule”)
 - i. Additional property is often discovered or otherwise omitted after the estate tax return is filed. If the property is discovered and reported before the end of the assessment period, the beneficiary’s basis equals the final estate tax value.¹⁰
 - ii. If no supplemental return is filed to report the asset (whether because the statute or limitations has expired or otherwise), the basis of the unreported asset will be zero in the hands of the recipient-beneficiary.¹¹
 - iii. ***Can cash have a zero basis?*** If the zero basis rule does apply, how will that affect the later discover of cash?

- f. Supplemental Returns
 - i. To ensure that the IRS (and each beneficiary) is apprised of any changes in reported values, there is a general duty imposed on the executor to supplement any reporting that changes after the initial Form 8971 and Schedule(s) A are filed.
 - ii. Prop. Reg. § 1.6035-1(e)(1)-(2) requires a supplemental Form 8971 and Schedule A to report any changes. Such changes include:
 - A. Discovery of assets that were not included on the estate tax return;

⁹ Prop. Reg. § 1.6035-1(b)(1).

¹⁰ Prop. Reg. § 1.1014-10(c)(3)(i)(A).

¹¹ Prop. Reg. § 1.1014-10(c)(3)(i)(B).

- B. Changes in the value of assets reported pursuant to an IRS audit, litigation or otherwise;
 - C. A change in the identity of the recipient; or
 - D. A disposition of an assets of the decedent by the executor that results in the basis of the new assets being determined with reference to the disposed assets (in whole or in part, such as a like-kind exchange or an involuntary conversion).
- g. Subsequent Transfers
- i. The reporting rules extend not only to the executor, but also to a beneficiary who makes a subsequent transfer of his property.
 - ii. Generally speaking, Prop. Reg. § 1.6035-1(f) requires that, if property previously reported or required to be reported on Form 8971 (and thus on the recipient's Schedule A) is received by a beneficiary of the estate, and that beneficiary then makes a gift of the property to a related party, the beneficiary must file a supplemental Schedule A with the IRS and furnish a copy to the transferee.
 - iii. This rule applies not only to gifts but also to any "transaction in which a related transferee determines its basis, in whole or in part, by reference to the recipient/transferor's basis."

V. FORM 8971

- a. IRS Form 8971
 - i. No values are reported on this return. Form 8971 is basically a transmittal cover sheet for the Schedule(s) A that are included in the filing with the IRS.
 - ii. Executors must include on Form 8971 identifying information for each beneficiary as well as the dates the executor provided a Schedule A to each beneficiary.
 - iii. Form 8971 must be signed by the executor. Form 8971 and all Schedules A must be filed with the IRS.

- b. Schedule A
 - i. The executor must complete a Schedule A for each beneficiary who will receive property from the estate.
 - ii. Each Schedule A should include every item of property that could potentially pass to the recipient. This will require executors, in cases in which multiple assets could be used to satisfy a general bequest, to list each of those assets on one Schedule A, even though not all of those assets will pass to that beneficiary. Similarly, the same asset may be required to be listed on multiple Schedules A if that asset could be used to satisfy bequests to multiple beneficiaries.

VI. ADVISING CLIENTS

- a. The executor and the beneficiaries of an estate often have conflicting interests.
- b. There will be confusion with the receipt of Schedule A. The property listed on Schedule A might not actually be the property the beneficiary may receive from the estate. In addition, the value that is listed on the estate tax return and Schedule A is the “initial basis” of a beneficiary of the estate (and his or her subsequent transferees) will often not be the actual basis in the hands of that person.
- c. The executor is tasked with sending the Schedule A to the beneficiaries.
- d. Sample text for a letter that you may want to consider using when transmitting Schedule A to a beneficiary is attached as Exhibit A.

VII. PENALTIES

- a. New §§ 6724(d)(1)(D) and 6724(d)(2)(II) include Form 8971 and Schedule A in the failure-to-file penalty provisions under §§ 6721 and 6722.

- i. Under these rules, the penalties are \$250 per statement, reduced to \$50 per statement if the error is corrected within 30 days of the due date of the statement.¹²
- ii. The existing penalty provisions also waive penalties in certain cases of corrected late filings.¹³
- b. Under § 6662(b)(8), a 20% accuracy-related penalty applies to the portion of any underpayment attributable to an “inconsistent estate basis.”
 - i. There is an “inconsistent estate basis” if the basis of property claimed on a return exceeds the basis as determined under § 1014(f).¹⁴
 - ii. This penalty applies whether or not the taxpayer acted with negligence or intentional disregard of the rules.¹⁵

VIII. STATUTE OF LIMITATIONS

- a. The Act also broadened the scope of the extended six-year statute of limitations on assessment in § 6501(e) to ensnare taxpayers selling property.
- b. To generate revenue to pay for provisions in the Act, Congress has applied this six-year statute of limitations to situations in which a taxpayer has overstated, in its federal tax return, the basis of property sold.

¹² §§ 6721(a)(1), (b)(1); 6722(a)(1), (b)(1).

¹³ §§ 6721(c)(1)(C); 6722(c)(1)(C).

¹⁴ §6662(b)(8).

¹⁵ §6662(b)(1).

**EXHIBIT A
SAMPLE LETTER TO BENEFICIARIES**

Dear [Beneficiary]:

As you know, I am serving as [executor] of the Estate of [decedent]. Pursuant to federal law, the [executor] is required to provide certain information to you as a beneficiary of the Estate. Enclosed is a completed Schedule A to Form 8971 which that contains this required information, a copy of which is also being provided to the Internal Revenue Service as required by law.

The Schedule A provides you with information about the value of property as reported on the estate tax return of the Estate that you have received or may receive, in whole or in part, from the Estate. This information may be important to you if you receive any of this property and later at any time sell, give or otherwise transfer the property, or change the ownership of the property, in whole or in part.

Please consult your tax advisor regarding your federal income tax obligations with respect to this information and possible tax penalties for failure to comply with federal law in connection with this information.



Instructions for Form 8971 and Schedule A

(Rev. September 2016)

Information Regarding Beneficiaries Acquiring Property From a Decedent (For use with Form 8971 (Rev. January 2016))

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 8971 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form8971.

General Instructions

Purpose of Form

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 requires executors of an estate and other persons who are required to file Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return Estate of nonresident not a citizen of the United States, to report the final estate tax value of property distributed or to be distributed from the estate, if the estate tax return is filed after July 2015. Form 8971, along with a copy of every Schedule A, is used to report values to the IRS. One Schedule A is provided to each beneficiary receiving property from an estate.



Provide each beneficiary only with a copy of that beneficiary's own Schedule A. Do not provide a copy of the Form 8971 with or without attached Schedule(s) A to any beneficiary.

Certain property received by a beneficiary may be subject to a consistency requirement, meaning that the beneficiary can't use a value higher than the value reported on Schedule A as the beneficiary's initial basis in the property.

Who Must File

An executor of an estate or other person(s) required to file Form 706 or Form 706-NA under sections 6018(a) and 6018(b), if the return is filed after July 2015, and whether or not that form is filed timely, is required to file Form 8971 with attached Schedule(s) A with the IRS and to provide each beneficiary listed on the Form 8971 with that beneficiary's Schedule A. See the Instructions for Form 706 or Form 706-NA, for more information on the filing requirement for those forms.

Form 8971 isn't required when:

- The gross estate plus adjusted taxable gifts is less than the basic exclusion amount;
- Estate tax-related forms (for example, Forms 706-QDT, 706-CE, and 706-GS(D), other than those mentioned above are filed;
- The estate tax return is filed solely to make an allocation or election respecting the generation-skipping transfer tax; or
- The estate tax return is filed solely to elect portability of the deceased spousal exclusion amount (DSUE).

When To File

Form 8971 (including all attached Schedule(s) A) must be filed with the IRS and only the Schedule A is to be provided to the beneficiary listed on that Schedule A, no later than the earlier of:

- The date that is 30 days after the date on which Form 706 or Form 706-NA is required to be filed (including extensions) with the IRS; or
- The date that is 30 days after the date Form 706 or Form 706-NA is filed with the IRS.

If the first Form 706 or Form 706-NA is filed both after the form's due date (including extensions) and after July 2015, the Form 8971 and Schedule(s) A are due 30 days after the filing date.

Form 8971 is a separate filing requirement from the estate's Form 706 or 706-NA, and shouldn't be attached to the respective estate tax return. Form 8971 and attached Schedule(s) A must be filed with the IRS, separate from any and all other tax returns filed by the estate.

Note. Notice 2016-27, 2016-15 I.R.B. 576, available at www.irs.gov/irb/2016-15_IRB/index.html, made June 30, 2016, the due date for:

- All Forms 8971 (including the attached Schedule(s) A) required to be filed with the IRS after July 31, 2015, and before June 30, 2016; and
- All Schedules A required to be provided to beneficiaries after July 31, 2015, and before June 30, 2016.

Note. If the due date falls on a Saturday, Sunday, or legal holiday, the executor of an estate or other person(s) may file on the next business day.

Where To File

File Form 8971 (including all Schedule(s) A) at the following address.

Department of the Treasury
Internal Revenue Service Center
Mail Stop #824G
Cincinnati, OH 45999

A beneficiary can be provided Schedule A:

- In person to an individual beneficiary, to the trustee(s) of a beneficiary trust, or to the executor(s) of a beneficiary estate;
- By email;
- By U.S. mail to the beneficiary's last known address; or
- By private delivery service to the beneficiary's last known address (see below).

The executor of the estate (or other person required to file) must certify on Form 8971, Part II, column D, the date on which Schedule A was provided to each beneficiary and should keep proof of mailing, proof of delivery, acknowledgment of receipt, or other information relevant for the estate's records. In cases where a trust or another estate is a beneficiary and has multiple trustees or executors, providing Schedule A to one trustee or executor is enough to meet the requirement.

Private delivery services. Certain private delivery services designated by the IRS may be used to meet the "timely mailing as timely filing" rule for tax returns. These private delivery services include only the following.

- DHL Express 9:00, DHL Express 10:30, DHL Express 12:00, DHL Express Worldwide, DHL Express Envelope, DHL Import Express 10:30, DHL Import Express 12:00, and DHL Import Express Worldwide.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, FedEx International First, FedEx First Overnight, FedEx International Next Flight Out, and FedEx International Economy.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, UPS Worldwide Express, and UPS Next Day Air Early AM.

For the IRS mailing address to use if you are using a private delivery service, go to [IRS.gov](https://www.irs.gov) and enter "private delivery service" in the search box.

The private delivery service can tell you how to get written proof of the mailing date.

Supplemental Forms 8971 and Schedules A

The value of the property to be reported on the initial Form 8971 and the attached Schedules A is the fair market value of the asset as reported on the estate tax return. However, the final value for purposes of the federal estate tax may differ from that reported on the estate tax return. A value is considered "final" when:

- The value of the property shown on an estate tax return filed with the IRS isn't contested by the IRS before the period of assessment expires;
- The value of the property is specified by the IRS and isn't timely contested by the estate (or other person required to file under section 6018(b)); or
- The value of the property is determined by a court or pursuant to a settlement agreement with the IRS, including the resolution of a claim for abatement or refund.

If information reported on Form 8971 and the Schedule(s) A filed with the IRS or provided to a beneficiary differs from the final value (as the result of the resolution of a valuation dispute or otherwise), the executor or other person required to make this filing must file a supplemental Form 8971 and affected Schedule(s) A with the IRS and provide an updated supplemental Schedule A to each affected beneficiary no later than 30 days after the adjustment. See *Where To File*, earlier. On both the supplemental Form 8971 and each supplemental Schedule A, the "Supplemental Filing" box should be checked and only the information that has changed should be reported.

If the initial Form 8971 and Schedule(s) A identify several beneficiaries who might receive the same property, the estate may, but isn't required to, file a supplemental Form 8971 and Schedule(s) A to specify the actual distribution of that property among the identified beneficiaries.

If the executor or other person required to file Form 8971 has been notified that a Form 706 or Form 706-NA, related to the Form 8971 and Schedule(s) A has been selected for examination, a copy of the supplemental Form 8971 with attached supplemental Schedule(s) A should be provided to the office conducting the examination.

Rounding Off to Whole Dollars

The value of property should be reported in U.S. dollars and rounded to whole-dollar amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.39 becomes \$1 and \$2.55 becomes \$3. If you add two or more amounts to figure an item's value, include the cents when adding the amounts and round off only the total.

Penalties

Note. An executor may be subject to penalties for failure to file and/or furnish correct Forms 8971 and Schedule(s) A even if there was no tax due on the estate tax return.

Failure to file correct Forms 8971 by the due date (section 6721). If the executor of an estate or other person required to file Form 8971 fails to file a correct Form 8971 and/or Schedule A with the IRS by the due date and reasonable cause isn't shown, a penalty may be imposed. The penalty applies if there is a failure to file timely, a failure to include all information required to be shown on the form or schedule, a failure to include correct information on the form or schedule, or a failure to file a correct supplemental Form 8971 and/or Schedule A by the due date. A complete Form 8971 includes all Schedule(s) A.

Only one penalty will apply for all failures relating to a single filing of a single Form 8971 and the Schedule(s) A required to be filed along with it. Each filing of a Form 8971 with Schedule(s) A is a separate filing, regardless as to whether the filing is of the initial Form 8971 and Schedule(s) A or a supplemental Form 8971 and Schedule(s) A.

The amount of the penalty depends on when the correct Form 8971 with Schedule(s) A is filed.

The penalty is as follows.

- \$50 per Form 8971 (including all Schedule(s) A) if it is filed within 30 days after the due date. The maximum penalty is \$532,000 per year (or \$186,000 if the taxpayer qualifies for lower maximum penalties, as described below).
- \$260 per Form 8971 (including all Schedule(s) A) if it is filed more than 30 days after the due date or if it isn't filed. The maximum penalty is \$3,193,000 per year (\$1,064,000 if the taxpayer qualifies for lower maximum penalties, as described below).

All penalty amounts shown are subject to adjustment for inflation.

Lower maximum penalties. You qualify for lower maximum penalties if your average annual gross receipts for the 3 most recent tax years (or for the period

you were in existence, if shorter) ending before the calendar year in which the information returns were due are \$5 million or less.

Intentional disregard of filing requirements. If any failure to file a correct Form 8971 or Schedule A is due to intentional disregard of the requirements to file a correct Form 8971 and Schedule(s) A, the minimum penalty is at least \$530 per Form 8971 and the Schedule(s) A required to be filed with it, with no maximum penalty.

Inconsequential error or omission. An inconsequential error or omission isn't considered a failure to include correct information. An inconsequential error or omission doesn't prevent or hinder the IRS from processing the Form 8971 and the Schedule(s) A required to be filed along with it. Errors and omissions that are **never** inconsequential are those related to a TIN, a beneficiary's surname, and the value of the asset the beneficiary is receiving from the estate.

Note. A TIN is a Social Security Number (SSN), an Employer Identification Number (EIN), an Individual Taxpayer Identification Number (ITIN), or any other number used by the IRS in the administration of tax laws. See *Part II—Beneficiary Information*, later, for information on obtaining the TIN of a beneficiary of the estate.

Failure to furnish correct Schedules A to beneficiaries by the due date (section 6722). If the executor of an estate or other person required to file Form 8971 fails to provide a correct Schedule A to a beneficiary and doesn't show reasonable cause, a penalty may be imposed. The penalty applies if there is a failure to provide the Schedule A by the due date, a failure to include all information required to be shown on the schedule, a failure to include correct information on the schedule, or a failure to provide a correct supplemental Schedule A by the due date. The penalty applies for each Schedule A required to be provided.

The amount of the penalty depends on when a correct Schedule A is provided.

The penalty is as follows.

- \$50 per Schedule A if it is provided within 30 days after the due date. The maximum penalty is \$532,000 per year (or \$186,000 if the taxpayer qualifies for lower maximum penalties, as described below).
- \$260 per Schedule A if it is provided more than 30 days after the due date or if it isn't provided. The maximum penalty is \$3,193,000 per year (\$1,064,000 if the taxpayer qualifies for lower maximum penalties, as described below).

All penalty amounts shown are subject to adjustment for inflation.

Lower maximum penalties. You qualify for lower maximum penalties if your average annual gross receipts for the 3

most recent tax years (or for the period you were in existence, if shorter) ending before the calendar year in which the information returns were due are \$5 million or less.

Intentional disregard of filing requirements. If any failure to provide a correct Schedule A is due to intentional disregard of the requirements to provide correct Schedules A, the penalty is at least \$530 per Schedule A with no maximum penalty.

Inconsequential error or omission. An inconsequential error or omission isn't considered a failure to include correct information. An inconsequential error or omission can't reasonably be expected to prevent or hinder the beneficiary from timely receiving correct information and using the information to report basis on the beneficiary's own return. Errors and omissions that are **never** inconsequential are those related to (a) the value of the asset the beneficiary is receiving from the estate, and (b) a significant item in a beneficiary's address.

Reasonable cause exception to the penalties for failing to file Forms 8971 and Schedules A and for failing to provide Schedules A to beneficiaries. The penalties for failing to file correct Form 8971 and Schedules A with the IRS and for failing to provide correct Schedules A to beneficiaries won't apply to any failure that is shown to be due to reasonable cause and not to willful neglect. In general, it must be shown that the failure was due to an event beyond the taxpayer's control or due to significant mitigating factors. It must also be shown that the executor or other person required to file acted in a responsible manner and took steps to avoid the failure.

Penalties for Inconsistent Filing

Beneficiaries who report basis in property that is inconsistent with the amount on the Schedule A may be liable for a 20% accuracy-related penalty under section 6662.

Obtaining Forms and Publications To File or Use

You can access the IRS website 24 hours a day, 7 days a week, at IRS.gov to:

- Download forms, instructions, and publications;
- Order IRS products;
- Research tax questions;
- Search publications by topic or keyword; and
- Sign up to receive local and national tax news by email.

Specific Instructions

Complete Form 8971 and each attached Schedule A in its entirety. A form or

schedule filed with the IRS without entries in each field won't be processed. A form with an answer of "unknown" won't be considered a complete return.

Part I — Decedent and Executor Information

Line 3. Enter the SSN of the decedent. If the decedent didn't have an SSN, the executor (or other person required to file Form 706) should obtain one for the decedent by filing Form SS-5, Application for a Social Security Card. You can get Form SS-5 online at www.socialsecurity.gov or by calling the SSA at 1-800-772-1213.

Line 4. If there is more than one executor, enter the name of one executor and see the instructions for line 8.

Line 6. Provide only the TIN of the executor listed on line 4 and see the instructions for line 8.

Line 7. Provide only the address of the executor listed on line 4. Use Form 8822, Change of Address, to report a change of the executor's address. Also, see the instructions for line 8.

Line 8. Check the box and attach a statement with the name, address, telephone number, and TIN of each executor (if any) other than the one named on line 4.

Line 9. If the executor made an election on the estate tax return to use alternate valuation under section 2032, provide the alternate valuation date.

Part II — Beneficiary Information

A beneficiary is an individual, trust, or other estate who has acquired (or is expected to acquire) property from the estate. If the executor is also a beneficiary who has acquired (or is expected to acquire) property from the estate, the executor is a beneficiary for purposes of the Form 8971 and Schedule A.

Column A. Enter the name of each individual, trust, or other estate that acquired (or is expected to acquire) property from the estate. Retain a copy of the Form 8971 (including all attached Schedule(s) A) for the estate's records.

Column B. Enter the TIN of each beneficiary listed. If the executor of the estate solicited a beneficiary's TIN in writing and hasn't received it, enter "requested" and attach a copy of the solicitation to Form 8971 to avoid inquiries from the IRS. A supplemental Form 8971 and corresponding Schedule A must be filed with the IRS once the TIN has been obtained.

Note. Some foreign beneficiaries may not be required to provide a TIN to the estate. If the foreign beneficiary isn't required to provide a TIN, enter "Not Required" in the TIN entry space.

Column D. For each beneficiary, enter the date on which the executor gave Schedule A to the beneficiary. See *Where To File*, earlier.

Return preparer. Permission to discuss the Form 8971 is limited to the information reported on (or required to be reported on) the Form 8971 and attached Schedule(s) A and doesn't authorize the return preparer to represent the estate before the IRS or to enter into any agreements with the IRS regarding the Form 8971 and attached Schedule(s) A.

Complete and attach Form 2848, Power of Attorney and Declaration of Representative, if the executor would like the return preparer to represent the estate before the IRS with respect to the Form 8971 and Schedule(s) A or any other matter related to the estate. Completing Form 2848 may authorize the person designated on that form to sign agreements, consents, waivers, or other documents.

Note. When completing Form 2848, remember the executor, not the estate, is the "taxpayer" to be listed in line 1, and the TIN listed should also be the executor's TIN. Also, when filling out line 3, enter "Civil Penalties" in the Description of the Matter column, "Form 8971/Schedule A" in the Tax Form Number column, and the decedent's date of death using the four-digit year and two-digit month as "YYYYMM" in the Year(s) or Period(s) column.

Anyone who is paid to prepare the Form 8971 and/or any Schedule A must sign the form as a paid preparer and give a copy of the completed Form 8971 and/or Schedule(s) A to the executor required to file Form 706 or Form 706-NA.

Note. A paid preparer may sign original or amended returns by rubber stamp, mechanical device, or computer software program.

Signature and Verification

All executors shown on Form 8971 and listed on any attached statement are responsible for the reporting requirements related to Form 8971 and Schedule(s) A. However, it is enough for only one of the executors to sign Form 8971.

Form 8971 is signed under penalties of perjury and all executors are responsible for the information included on Form 8971 and Schedule(s) A as filed with the IRS and Schedules A provided to beneficiaries. All executors are also liable for all applicable penalties.

Schedule A — Information Regarding Beneficiaries Acquiring Property From a Decedent

Executors of estates filing Form 8971 are required to complete a Schedule A for each beneficiary that acquired (or is expected to acquire) property from the estate. You will need a copy of the Form 706 or Form 706-NA filed by the estate of the decedent to complete this schedule. All property acquired (or expected to be acquired) by a beneficiary must be listed on that beneficiary's Schedule A. If the executor hasn't determined which beneficiary is to receive an item of property as of the due date of the Form 8971 and Schedule(s) A, the executor must list all items of property that could be used, in whole or in part, to fund the beneficiary's distribution on that beneficiary's Schedule A. (This means that the same property may be reflected on more than one Schedule A.) A supplemental Form 8971 and corresponding Schedule(s) A may, but aren't required to, be filed once the distribution to each such beneficiary has been made.

Note. A cash bequest acquired (or expected to be acquired) by a beneficiary isn't considered reportable property for purposes of Form 8971/Schedule A.

Use and duplicate page A-2 (Schedule A—Continuation Sheet) if additional space is needed to list the property acquired (or expected to be acquired) by a beneficiary. Attach a copy of each completed Schedule A to Form 8971 and submit to the IRS. Provide a copy of each Schedule A only to the beneficiary named on that Schedule A. Do not provide a copy of the Form 8971 to a beneficiary. See the instructions under *Where To File*, earlier.

Column A. Number the items received by the beneficiary. Continue this numbering on page A-2 of the Schedule A—Continuation Sheet (if necessary).

Column B. Use the same description in column B that the executor used for the property on the Form 706 or Form 706-NA. Include in column B the schedule and item number where the property was reported on Form 706 or Form 706-NA, as applicable.

If the beneficiary acquired (or is expected to acquire) a joint interest, fractional interest, or any other interest in property which is less than 100% of the interest reported on the estate tax return, indicate the interest in the property the beneficiary will acquire.

Listings of bulk assets may be attached to Schedule A in lieu of a detailed

description of each item that has been acquired (or is expected to be acquired) by a beneficiary. The listing should consist of a related property (for example, stocks held in a single brokerage account) and only include information relevant to basis reporting such as name/description of the property, value, and valuation date. Do not attach property appraisals to Schedule A.

For more information on details to be included by asset type or schedule, see the Instructions for Form 706 or Form 706-NA.

Column C. An entry (Y or N) is required in this column for each asset. Indicate "Y" only if estate tax was generated and the asset contributed to the estate tax (for example, the asset wasn't subject to a marital or charitable deduction).

Generally, any property that qualifies for a marital deduction under section 2056 or 2056A or a charitable deduction under section 2055 won't generate estate tax and "N" should be indicated.

Column D. Generally, the valuation date of property will be the decedent's date of death. If the estate elected to use an alternate valuation date, list the value of the property on the alternate valuation date. See section 2032 for additional guidance.

Column E. List the value reported on Form 706 or Form 706-NA. The value reported in column E should be the fair market value as of the decedent's date of death or any alternate valuation date used for the estate tax return. This value shouldn't reflect any post-death adjustment in value. The full fair market value of the property acquired (or expected to be acquired) by the beneficiary is to be reported in column E. This value shouldn't factor in mortgages, non-recourse indebtedness, or other decreases in equity.

For partial interests of property, (including life estates and usufructs) the value reported should reflect the proportional value of the partial interest for each beneficiary. For example, an estate has property valued on the Form 706 at \$400,000. The property is being distributed to Beneficiary 1, receiving a 75% interest in the property, and Beneficiary 2, receiving a 25% interest in the property. Schedule A, Part II, column E should reflect \$300,000 on the Schedule A for Beneficiary 1 and \$100,000 on the Schedule A for Beneficiary 2. If the value reported on a Schedule A that has already been filed with the IRS or provided to a beneficiary changes (as a result of the resolution of a valuation issue or otherwise), you must file a supplemental Form 8971 and associated Schedule(s) A with the IRS and provide an updated Schedule A to each affected beneficiary no later than 30 days after the adjustment.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. Sections 6035 and 6109, and the regulations require you to provide this information.

You aren't required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose information from this form in certain circumstances. For example, we may disclose information to the Department of Justice for civil or criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal non-tax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information, or providing false information, may subject you to penalties.

The time needed to complete and file this form and related schedules will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	3 hr., 49 min.
Learning about the law or the form	42 min.
Preparing, copying, assembling, and sending the form to the IRS	47 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from www.irs.gov/formspubs/. Click on "More Information" and then on "Give us feedback." You can also send your comments to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the tax form to this address. Instead, see *Where To File*, earlier.

Information Regarding Beneficiaries Acquiring Property From a Decedent

OMB No. 1545-2264

▶ Information about Form 8971 and its separate instructions is at www.irs.gov/form8971.

Check box if this is a supplemental filing

Part I Decedent and Executor Information

1 Decedent's name	2 Decedent's date of death	3 Decedent's SSN
4 Executor's name (see instructions)	5 Executor's phone no.	6 Executor's TIN
7 Executor's address (number and street including apartment or suite no.; city, town, or post office; state or province; country; and ZIP or foreign postal code)		
8 If there are multiple executors, check here <input type="checkbox"/> and attach a statement showing the names, addresses, telephone numbers, and TINs of the additional executors.		
9 If the estate elected alternate valuation, indicate the alternate valuation date: _____		

Part II Beneficiary Information

How many beneficiaries received (or are expected to receive) property from the estate? _____ For each beneficiary, provide the information requested below. If more space is needed, attach a statement showing the requested information for the additional beneficiaries.

A Name of Beneficiary	B TIN	C Address, City, State, ZIP	D Date Provided

Notice to Executors:

Submit Form 8971 with a copy of each completed Schedule A to the IRS. To protect privacy, Form 8971 should not be provided to any beneficiary. Only Schedule A of Form 8971 should be provided to the beneficiary. Retain copies of all forms for the estate's records.

Sign Here ▶ Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, all information reported herein is true, correct, and complete.

Signature of executor	Date
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May the IRS discuss this return with the preparer shown below? See instructions Yes No

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶			Firm's EIN ▶	
	Firm's address ▶			Phone no.	

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SCHEDULE A—Information Regarding Beneficiaries Acquiring Property From a Decedent

▶ Information about Form 8971 (including Schedule A) and its separate instructions is at www.irs.gov/form8971.

Check box if this is a supplemental filing

Part 1. General Information

1 Decedent's name	2 Decedent's SSN	3 Beneficiary's name	4 Beneficiary's TIN
5 Executor's name			6 Executor's phone no.
7 Executor's address			

Part 2. Information on Property Acquired

A Item No.	B Description of property acquired from the decedent and the Schedule and item number where reported on the decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. If the beneficiary acquired a partial interest in the property, indicate the interest acquired here.	C Did this asset increase estate tax liability? (Y/N)	D Valuation Date	E Estate Tax Value (in U.S. dollars)
1	Form 706, Schedule _____, Item _____ Description —			

Notice to Beneficiaries:

You have received this schedule to inform you of the value of property you received from the estate of the decedent named above. **Retain this schedule for tax reporting purposes.** If the property increased the estate tax liability, Internal Revenue Code section 1014(f) applies, requiring the consistent reporting of basis information. For more information on determining basis, see IRC section 1014 and/or consult a tax professional.

SCHEDULE A—Continuation Sheet

Use only if you need additional space to report property acquired (or expected to be acquired) by the beneficiary.

Check box if this is a supplemental filing

Part 1. General Information

1 Decedent's name	2 Decedent's SSN	3 Beneficiary's name	4 Beneficiary's TIN
5 Executor's name			6 Executor's phone no.
7 Executor's address			

Part 2. Information on Property Acquired

A Item No. <small>(continue from previous page)</small>	B Description of property acquired from the decedent and the Schedule and item number where reported on the decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return. If the beneficiary acquired a partial interest in the property, indicate the interest acquired here.	C Did this asset increase estate tax liability? <small>(Y/N)</small>	D Valuation Date	E Estate Tax Value <small>(in U.S. dollars)</small>

Notice to Beneficiaries:

You have received this schedule to inform you of the value of property you received from the estate of the decedent named above. **Retain this schedule for tax reporting purposes.** If the property increased the estate tax liability, Internal Revenue Code section 1014(f) applies, requiring the consistent reporting of basis information. For more information on determining basis, see IRC section 1014 and/or consult a tax professional.