Content

Title：	Estate and Gift Tax Act Ch
Date：	2015.07.01
Legislative：	History 1.Full text promulgated on 6 February, 1973 by Presidential Decree Tai-tung-1 No. 0595. 2. Amendment to Article 57 promulgated on 5 September, 1973 by Presidential Decree Tai-tung-1 No. 4052. 3.Amendments to Articles 12, 13, 16 to 20, 22,30, 44 to 46, 51 to 53, and 56, and deletion of Article 27, 31, 32, 34 to 36, 38, 49, 54 and 57, as well as the heading of Section 2, Chapter IV promulgated on 19 June, 1981 by Presidential Decree. 4.Deletion of Article 53 promulgated on 30 July, 1993 by Presidential Decree. 5.Addition of Article 3-1, 12-1, and 41-1, amendments to Article 4, 5, 10, 11, 13, 16-20, 22, 30, 41 and Article 51 promulgated on 13 January, 1995 by Presidential Decree Hua-tzung-1 No. 10178. 6. Amendments to Article 11 and 20 promulgated on 24 June, 1998 by Presidential Decree Hua-tzung-1 No.8700122850. 7.Amendment to Article 15 promulgated on 15 July, 1999 by Presidential Decree Hua-tzung-1 No.8800162090. 8.Amendments to Article 4, 17, and 20 promulgated on 26 January, 2000 by Presidential Decree Hua-tzung-1 No.8900017410. 9.Addition of Article 3-2, 5-1, 5-2, 10-1, 10-2.16-1, 20-1, and 24-1, and amendment to Article 59 promulgated on 13 June, 2001 by Presidential Decree Hua-tzung-1 No. 9000116080 and promulgated on 1 July, 2001 with the approval of Executive Yuan. 10.Amendment to Article 28 promulgated on 2 June, 2004 by Presidential Decree No.09300104241. 11.Addition of Article 17-1, 58-1, and amendments to Article 7, 10 , 13 ,18 , 19, 22, 30, 44, and 45 promulgated on 21 January, 2009 by Presidential Decree No.09800015721. 12.Amendments to Article 30 promulgated on 1 July, 2015 by Presidential Decree No.10400075361.
Content：	Chapter 1 General Article 1 All property of a decedent who was an ROC citizen and resided in the ROC continuously shall be subject to estate tax under this Act, irrespective of whether the estate is located within or outside the ROC. Property left by a decedent who was an ROC citizen but resided outside the ROC continuously or who was a non-ROC citizen shall be subject to estate tax only to the extent that such estate is located within the ROC.

Article 2

Estate not claimed by anybody for inheritance shall go to the national treasury; estate tax payable thereof will be allocated by the national treasury in accordance with the Act Governing the Allocation of Government Revenues and Expenditures.

Article 3

Property given away by a donor who is an ROC citizen and resides in the ROC continuously shall be subject to gift tax under this Act, irrespective of whether the property is located within or outside the ROC.
Property given away by a donor who is an ROC citizen but resides outside the ROC continuously or who is a non-ROC citizen shall be subject to gift tax only to the extent that the property is located within the ROC.

Article 3-1

If the decedent or donor voluntarily relinquished his/her ROC citizenship within two years prior to the event of death or making of gift, the property of the decedent or gift made by the donor shall be subject to estate tax or gift tax according to the regulations for an ROC citizen provided herein.

Article 3-2

Property in a testamentary trust shall be subject to estate tax under this Act upon the death of the testator.
If the beneficiary of a trust dies during the life of the trust, his/her interest in the trust that is not yet received shall be subject to estate tax under this Act.

Article 4

The term “estate” or “property” depicted herein shall mean movables, real property and other rights and interests having value.
The term “gift” depicted herein shall mean an act where the donor offers

to transfer his/her property gratuitously to the donee who in turn accepts the transfer.

"Continuous residence within the ROC" depicted herein shall mean the decedent or donor had any of the following situations:

(1)Maintaining a domicile in the ROC within two years prior to the event of death or making of gift.

(2)Residing inside the ROC without maintaining a domicile, but having stayed in the ROC more than 365 days within two years immediately prior to the event of death or making of gift, except for a foreigner who was employed by the ROC government to render a service and had only stayed in the ROC for a specific period of time.

"Continuous residence outside the ROC" depicted herein shall mean residence condition not meeting the requirements set forth in the preceding paragraph.

The term "farmland" depicted herein shall mean land to which the Statute Governing Agricultural Development applies.

Article 5

Transfer of property in any of the conditions below shall be regarded as gift and subject to gift tax under this Act:

(1)To forgive or assume debts without receipt of any consideration or compensation while the right of claim is still valid; the debts forgiven or assumed are subject to gift tax.

(2)To transfer property, forgive or assume debts for substantially less than an adequate and full consideration; the difference between the market value of property or debts forgiven or assumed and the value of consideration received is subject to gift tax.

(3)To purchase property in favor of others with own funds without receipt of any consideration; the funds paid for the purchase of property or the real estate so purchased are subject to gift tax.

(4)To purchase property in favor of others with own funds and receiving substantially less than an adequate and full consideration from the beneficiary nominee; the difference between the purchase price and the value of consideration received is subject to gift tax.

(5)Property purchased in the name of a person having no or restricted legal capacity shall be deemed as a gift from the statutory agent or guardian, unless evidence clearly indicates that the purchase payment came from the funds of the beneficiary/nominee.

(6)Sales of property between relatives within second degree of kinship, unless evidence clearly indicates a bona fide sale for an adequate and full consideration in money or money''s worth and the money thus paid did not come from a loan from the seller or a loan which the seller furnished guarantee.

Article 5-1

In the case of a trust where a person other than the settlor is entitled to the entire trust interests or part of beneficiaries is other than the settlor, it shall be regarded as a transfer of entire trust interest by the settlor to the beneficiary and constituted a gift, which is subject to gift tax.

If in a trust where the settlor is entitled to the entire trust interest or part of beneficiaries was the settlor and subsequently changed to another person other than the settlor, it will be subject to gift tax according to the preceding paragraph at the time the change of beneficiary is effected.

If the settlor adds property to the trust during the life of the trust, thereby resulting in an increase in trust interest to beneficiaries other than the settlor, the increased value of such trust interest will be subject to gift tax according to the first paragraph hereof.

Article 5-2

Transfer or other disposition of trust property between the following parties in a trust is not subject to gift tax:

(1)Between the settlor and the trustee at the time the trust is created.

(2)Between the original trustee and the newly appointed trustee when there is change to the trustee during the life of the trust.

(3)Between the trustee and the beneficiary when the trustee distributes the trust property according to the trust deed during the life of the trust.

(4)Between the settlor and the trustee or between the trustee and the beneficiary when the trust ceases to exist.

(5)Between the settlor and the trustee when the trust is invalidated, voided, terminated or cancelled.

Article 6

The taxpayers of the estate tax shall be:

(1)Executor of the will;

(2)Heir(s) or legatee(s), in case no executor is appointed; or

(3)The administrator appointed according to the law, in case there is no executor or heir(s).

In the case where an administrator should be appointed, but not selected

for whatever reason within six months following the death of decedent, the tax authority may submit a petition to the court for appointment of an administrator pursuant to the provisions of the Non-litigation Act.

Article 7

The taxpayer of gift tax shall be the donor of gift. However, the donee shall be liable for payment under any of the following circumstances:
(1)The donor’s whereabouts is unknown;
(2)The donor fails to pay gift tax within the time limit prescribed herein and does not have any property in the ROC for enforcement ; or
(3) The gift tax has not been assessed by the time of death of the donor.
If there are more than one donee in the case described in the foregoing paragraph, the donees shall be liable for payment of gift tax computed according to this Act in proportion to the value of the property received by each donee.

Article 8

Estate of the decedent may not be split, delivered to legatee(s), or undergo recordation of title transfer before estate tax due is paid off. Property given away as gift may not undergo recordation of title transfer before gift tax due is paid off. The preceding provisions do not apply to cases where the taxpayer has obtained in advance a consent to transfer certificate, tax exemption certificate, exclusion from gross estate certificate, or exclusion from total amount of gifts certificate issued by the competent tax authority pursuant to Article 41 herein.
When real property in the estate of the decedent becomes the target of compulsory execution requested by the creditor(s), the court should notify the competent tax authority to assess the estate tax payable by the established procedure swiftly and forward the case to the court for compulsory execution.

Article 9

The property within or outside the ROC as stipulated in Articles 1 and 3 herein shall be determined by its location at the time of death of decedent or making of gift by the donor:
(1)For movables, real property and attachments, the physical location will

govern. However, for ships, automobiles and aircraft, the location of the registration agency for the ship, automobile or aircraft will govern;
(2)For mining rights, the physical location of the mines or mining area will govern;
(3)For fishing rights, the location of its administrative jurisdiction will govern;
(4)For patents, trademarks, copyrights and publishing rights, the location of relevant registration agency will govern;
(5)For other business rights, the place of business will govern;
(6)For deposits received by financial institutions, the office or business place of the financial institution will govern;
(7)For rights of claim, the continuous residence or the office or business place of the debtor will govern;
(8)For treasury bonds, corporate bonds, stocks or equity investments, the principal business place of the issuer or invested enterprise will govern; and
(9)For trust interests, the office or business place of the trust enterprise will govern.
For other property where its location is difficult to determine, the decision of the Ministry of Finance will govern.

Article 10

For tax purposes, the estate of the decedent shall be valued according to the prevailing value at the time of death or prevailing value on the date of death as indicated in the adjudication of the court; the property transferred by gift shall be valued according to its prevailing value on the date of gift.
For cases where the event of death or gift occurred prior to the amendment of this Article on 15 January, 1995, the amended provisions in paragraph 1 shall apply to the valuation of the estate or gift which is not yet taxed or where taxation is not yet determined.
The “prevailing value” depicted in paragraph 1 hereof shall mean the government assessed value as published from time to time or the assessed standard price in the case of land, or the assessed standard price in the case of houses; the rules to determine the prevailing value of other objects not specified in this Act shall be prescribed by the Ministry of Finance.

Article 10-1

Interest in a trust subject to gift tax pursuant to paragraph 2 of Article

3-2 herein shall be valued by the following rules:
(1)If the beneficiary is entitled to the entire trust interest which consists of money, the trust amount will govern; if the trust interest is property other than money, the prevailing value of the trust property at the time of beneficiary's death will govern.
(2)If the trust interest consists of money other than accrued interest, the present value of the trust amount discounted from the time of beneficiary's death to the expiration of beneficial period at the fixed interest rate for one-year term deposit compounded annually as quoted by the Postal Remittance & Savings Bank at the time of beneficiary's death will govern; if the trust interest consists of property other than money, the prevailing value of the trust property at the time of beneficiary's death, discounted to present value at the fixed interest rate for one-year term deposit compounded annually as quoted by the Postal Remittance & Savings Bank at the time of beneficiary's death will govern.
(3)If the trust interest consists of accrued interest, the trust amount or the prevailing value of the trust property at the time of beneficiary's death less the value computed according to subparagraph 2 will govern. Notwithstanding the foregoing, if the accrued interest is fixed interest paid on treasury bonds, corporate bonds, bank debentures or other contractually agreed interest payment, its value shall be computed by the total annual interest accrued discounted to present value at the fixed interest rate for one-year term deposit compounded annually as quoted by the Postal Remittance & Savings Bank at the time of beneficiary's death.
(4)If the trust interest consists of the right to receive fixed amount payable periodically, its value shall be computed by the sum of interest receivable each year discounted to present value at the fixed interest rate for one-year term deposit compound annually as quoted by the Postal Remittance & Savings Bank at the time of beneficiary's death. If the trust interest consists of the right to entire trust interests less the fixed amount payable periodically, its value shall be computed by the prevailing value of the trust property at the time of beneficiary's death less the value computed according to the subparagraph 3.
(5)Partial interest in any of the trust interest as stipulated in subparagraphs 1, 2, 3, and 4 shall be valued by the proportion of the benefit receivable.

Article 10-2

Interest in a trust subject to gift tax pursuant to Article 5-1 herein shall be valued by the following rules:
(1)If the beneficiary is entitled to the entire trust interest which consists of money, the trust amount will govern; if the trust interest is property other than money, the prevailing value of the trust property at the time of gift will govern.
(2)If the trust interest consists of money other than accrued interest, the present value of the trust amount discounted from the time of gift to

the expiration of beneficial period at the fixed interest rate for one-year term deposit compounded annually as quoted by the Postal Remittance & Savings Bank at the time of gift will govern; if the trust interest is property other than money, the prevailing value of the trust property at the time of gift which is discounted to present value at the fixed interest rate for one-year term deposit compounded annually as quoted by the Postal Remittance & Savings Bank at the time of gift will govern.

(3)If the trust interest consists of accrued interest, the trust amount or the prevailing value of the trust property at the time of gift less the value computed according to subparagraph 2 will govern. Notwithstanding the foregoing, if the accrued interest is fixed interest paid on treasury bonds, corporate bonds, bank debentures or other contractually agreed interest payment, its value shall be computed by the total annual interest accrued discounted to present value at the fixed interest rate for one-year term deposit compounded annually as quoted by the Postal Remittance & Savings Bank at the time of gift.

(4)If the trust interest consists of the right to receive fixed amount payable periodically, its value shall be computed by the sum of interest receivable each year discounted to present value at the fixed interest rate for one-year term deposit compound annually as quoted by the Postal Remittance & Savings Bank at the time of gift. If the trust interest consists of the right to entire trust interests less fixed amount payable periodically, its value shall be computed by the prevailing value of the trust property at the time of gift less the value computed according to subparagraph 3.

(5)Partial interest in any of the trust interest as stipulated in subparagraphs 1, 2, 3, and 4 shall be valued by the proportion of the benefit receivable.

Article 11

Foreign estate tax or gift tax paid in respect of any property situated within such foreign country may be deducted from the estate tax or gift tax payable, provided the taxpayer presents proof of tax payment issued by the local tax authority accompanied by a certificate issued by an ROC embassy or consulate at where the tax is paid, or a certificate issued by a local certified public accountant or local notary public. Notwithstanding the foregoing, the deduction claimed thereof shall not exceed the increase in tax computed by the applicable tax rate in the ROC due to the inclusion of such estate or property in the gross estate or gift.

When gift made by the decedent within two years prior to his/her death is included in gross estate and subject to estate tax pursuant to Article 15 herein, the gift tax and land value increment tax already paid on the gift plus interest accrued at fixed rate for one-year term deposit as quoted by the Postal Remittance & Savings Bank will be deducted from the estate tax payable. Notwithstanding the foregoing, the deduction may not exceed the

increase in tax due to the inclusion of such property in the gross estate.

Article 12

All amounts prescribed in this Act shall be denominated in New Taiwan Dollar (NTD).

Article 12-1

The amounts provided below will be adjusted starting from the following year each time the consumer price index (CPI) has risen more than ten percent (10%) cumulatively since the previous adjustment; the magnitude of adjustment shall be the actual rise in CPI, and the amount adjusted shall be in the unit of $10,000, amounts less than $10,000 shall be calculated in thousands and then rounded off to the nearest ten thousand:
(1)Exemptions;
(2)Amounts in each tax bracket;
(3)Daily necessities of the decedent and apparatus for professional use by the decedent that are excluded from gross estate; and
(4)Deductions for surviving spouse, lineal descendants, parents, siblings and grandparents of the decedent, standard deduction for funeral expenses, and special deductions for handicapped heirs.
The Ministry of Finance should determine the amounts applicable to estate or gift cases in the next year by the provisions of the preceding paragraph and announce the same before the end of December each year. The term "consumer price index" shall mean the 12-month average consumer price index from November in the previous year to the end of October of the then current year published by the Directorate General of Budget, Accounting & Statistics.

Chapter 2 Computation of Estate Tax
Article 13

Estate tax will be imposed on taxable estate at the rate of 10%; the term "taxable estate" means the value of gross estate computed according to the provisions herein, less deductions provided in Article 17 and 17-1 herein and exemptions provided in Article 18 herein.

Article 11

The agricultural land as referred to under Subparagraph 6, Paragraph 1 of

Article 17 and Subparagraph 5 of Article 20 of the Act shall mean all land parcels used for farming, forestry, aquaculture, and livestock breeding purposes as well as farm houses, livestock and poultry houses, warehousing facilities, goods-collecting yards, sun-drying yards, farm roads, and irrigation, drainage, and other agriculture-use lands inseparable from the operation of the business of agriculture. However, land parcels already statutorily designated as not for agricultural use by the time the estate is transferred or the gift made shall not be included.

Article 14

(Deleted)

Article 14

Gross estate shall include all property of the decedent as stipulated in Article 1 herein at the time of death calculated according to the value stipulated in Article 10 herein, but exclude property provided in Article 16 herein.

Article 15

Property transferred by gift to the following individuals by the decedent two years before his/her death is regarded as estate of the decedent, which shall be included in the gross estate and subject to estate tax under this Act:
(1)the surviving spouse of the decedent;
(2)the heirs of the decedent prescribed under Section 1138 and 1140 of the Civil Code; and
(3)the spouses of the heirs named in the preceding subparagraph.
Inheritance cases occurred after 26 June, 1998 to the time the amended provisions in paragraph 1 is promulgated and takes effect shall be subject to the provisions under that paragraph.

Article 16

Exclusions from the gross estate include the following:
(1)Property donated by legator, legatee(s), or heir(s) to government agencies at various levels or public educational, cultural, public welfare and charitable organizations;
(2)Property donated by legator, legatee(s), or heir(s) to public

organizations or businesses fully owned by the government;
(3)Property donated by legator, legatee(s), or heir(s) to private incorporated educational, cultural, public welfare, charitable or religious organizations, or ancestor worshipping entities that meet the criteria prescribed by the Executive Yuan;
(4)Cultural, historical or art books and articles duly registered with the competent tax authority, provided, however, that the estate tax on such books or articles shall be recaptured in the event of transfer of the same;
(5)Copyright, patented invention and work of act created by the decedent;
(6)Necessities of the decedent for daily life with gross value under $720,000;
(7)Apparatus for professional use by the decedent with gross value under $400,000;
(8)Forests banned or restricted from logging by law, provided, however, that the lift of the ban or restriction will subject the same to the recapture of estate tax thereon;
(9)Proceeds paid to the designated beneficiary at the time of death of the insured under life insurance, or insurance covering soldiers, civil servants, or teachers, or labor insurance, or farmer insurance;
(10)Property inherited by the decedent within five years prior to his/her death, provided that estate tax on the inherited property has been paid;
(11)Property originally or specifically owned by the spouse or children of the decedent, and the ownership of which can be proved with registration or other support document;
(12)Land used by government for public passage or other land used for public passage free of charge, which is certified by the competent authority, with the exception to empty lot reserved for housing construction as required by law; and
(13)Unrecoverable or unexercisable claims inherited, provided there are relevant support documents.

Article 16-1

Property of legator, legatee(s), or heir(s) that is donated or added to charitable trusts already established at the time of death of the decedent and meet the following requirements is excluded from the gross estate:
(1)The trustee is a trust enterprise provided in the Trust Enterprise Act;
(2)Except for necessary expenses incurred from operating the business for which the trust is established, the charitable trust does not accord any special benefit to specific party or others by any means; and
(3)The trust deed stipulates that upon the cancellation, termination or extinction of the trust, the trust property will be transferred to government of various levels and/or public interest group or charitable trust with similar objectives.

Article 17

Deductions from the gross estate include the following:
(1)A deduction of $4,000,000 for surviving spouse;
(2)A deduction of $400,000 for each lineal descendent and an additional deduction of $400,000 for each year starting from the current age of each lineal descendent up to the age of twenty; in case descendent(s) of higher degree of kinship waives the inheritance which is succeeded by descendent(s) of lower degree of kinship, the deductions shall be limited to the original deductions allowed for descendent(s) who waived the inheritance;
(3)A deduction of $1,000,000 for each parent;
(4)A deduction of $5,000,000 per person additionally if the person specified in subparagraphs (1) to (3) hereof is a handicapped provided in Article 3 of The Handicapped Protection Act or a mental patient provided in Paragraph 2, Article 5 of the Mental Health Act;
(5)A deduction of $400,000 for each of the dependent brothers, sisters and grandparents of the decedent and an additional deduction of $400,000 for each dependent brother and sister for each year starting from the current age of each such brother and sister up to the age of twenty;
(6)Total value of crops and farmland inherited by the heir(s) or legatee(s) for agricultural purpose. If the heir(s) or legatee(s) fail to use the farmland thus inherited for agricultural purpose continuously for five years from the date of inheritance and fail to resume farming before the deadline set by the competent authority, or have resumed the use of farmland for agricultural purpose before the aforesaid deadline but subsequently fail to farm again, tax shall be made due retroactively, unless the disuse of farmland for agricultural purpose is due to the fact that the heir(s) has died, or that the land is requisitioned by the government, or has changed zoning to non-farming purpose pursuant to laws;
(7)80%, 60%, 40% or 20% of the value of property inherited by the decedent depending on whether said property was inherited 6, 7, 8 or 9 years prior to his/her death respectively and provided estate tax on such property has been paid previously;
(8)The taxes, penalties and fines incurred before the death and owed by the decedent;
(9)Debts owed by the decedent and the existence of which can be evidenced by solid proof;
(10)A standard deduction for funeral expenses in the amount of $1,000,000; and
(11)Any direct and necessary expenses incurred by the executor and administrator.
Subparagraphs (1) to (7) of paragraph 1 shall not be applicable in the case where the decedent, being a ROC citizen, did not reside in the ROC continuously, or he/she was not an ROC citizen. The deductions specified in Subparagraphs (8) to (11) of paragraph 1 are available only to the extent that they are incurred within the territory of the ROC. Subparagraphs (1)

to (5) of paragraph 1 do not apply to heirs(s) who waive(s) the right of inheritance.

Article 17-1

While the spouse of the decedent declares the right to claim for the distribution of the remainder of the property as prescribed under Section 1030-1 of the Civil Code, the taxpayer shall file an estate tax return with the competent tax authority to deduct such property from the total amount of the estate.

If the taxpayer fails to pay the amount of the claim to the spouse of the decedent within one year from the date the competent tax authority issues the estate tax payment certificate or tax exemption certificate, the competent authority shall tax the amount of the unpaid portion within five years from the next day when the aforesaid period is expired.

Article 18

An exemption of $12,000,000 may be deducted from the gross estate, provided the decedent is an ROC citizen who resided continuously in the ROC; the aforesaid exemption shall be doubled if the decedent was a soldier, policeman, civil servant or teacher who died in the performance of duty.

The deduction of exemption provided in paragraph 1 shall be applicable in the case where the decedent was an ROC citizen who resided continuously outside the ROC or where the decedent was a non-ROC citizen.

Chapter 3 Computation of Gift Tax

Article 19

Gift tax will be imposed on taxable gifts at the rate of 10%; the term "taxable gifts" means the total amount of gifts made during the calendar year by the donor, less deductions provided in Article 21 herein and the amount provided in Article 22 herein. For tax purpose, if the same donor makes gift twice or more in the same calendar year, all gifts made up to the time the latest transfer by gift occurs shall be included in computing the value of gifts, based on which gift tax is computed according to paragraph 1, and tax due for the latest transfer shall be the aforesaid tax

amount less gift tax already paid.

Article 20

Exclusions from total amount of gifts include the following:
(1)Property donated to government agencies at various levels or public educational, cultural, public welfare, charitable or religious organizations;
(2)Property donated to public organizations or businesses fully owned by the government;
(3)Property donated to private incorporated educational, cultural, public welfare, charitable or religious organizations, or ancestor worshipping entities that meet the criteria prescribed by the Executive Yuan;
(4)Living, educational and medical expenses defrayed in favor of the dependents of the donor;
(5)Total value of crops and farmland given to the heir(s) provided under Section 1138 of the Civil Code. If the donee fails to use the farmland for agricultural purpose continuously for five years from the date of gift and fails to resume farming before the deadline set by the competent authority, or have resumed the use of farmland for agricultural purpose before the aforesaid deadline but subsequently fail to farm again, tax shall be made due retroactively, unless the disuse of farmland for agricultural purpose is due to the fact that the donee has died, or that the land is requisitioned by the government, or has changed zoning to non-farming purpose pursuant to law;
(6)Gifts made between spouses; and
(7)Wedding gifts given by parents to the extent of $1,000,000.
Gifts made between spouses and wedding gifts given by parents under $1,000,000 which occurred before 14 January, 1995, but the tax on which has not been levied or determined by the time the amended provisions in paragraph 1 was promulgated and came into force, will be subject to the provisions under subparagraphs (6) and (7) hereof.

Article 20-1

In case where a settlor furnished property for the creation of a charitable trust, or donated or added to charitable trusts that meet the requirements specified in Article 16-1 herein, and where the beneficiaries are entitled to the trust interest, the right to claim such trust interest may be excluded from total amount of gifts.

Article 21

Liability transferred together with the gift may be deducted from total amount of gift.

Article 22

An annual exemption of $2,200,000 may be deducted from total amount of gift for each donor.

Chapter 4 Tax Collection Procedure
Section 1 Tax Return and Payment
Article 23

An estate tax return reporting the property left by the decedent shall be filed by the taxpayer with the competent tax authority at where the decedent had his/her household registration record within six (6) months from the date of death. In the case where the tax authority requests the court to appoint an estate administrator pursuant to Paragraph 2 of Article 6 herein, the six-month period shall begin from the date the court appoints an administrator.
An estate return reporting the property left by the decedent inside the ROC who was an ROC citizen but resided continuously outside the ROC or a non-ROC citizen shall be filed with the competent tax authority at where the ROC Central Government is located.

Article 24

Except for gifts made as prescribed in Article 20 herein, a donor shall file a gift tax return with the competent tax authority within thirty (30) days from the date of a gratuitous transfer for gifts made during the calendar year in excess of the annual exemption.
A donor who is an ROC citizen and resides in the ROC continuously shall file the gift tax return with the competent tax authority at where the donor has his/her household registration record; a donor who is an ROC citizen but resides outside the ROC continuously or who is a non-ROC citizen shall file the gift tax return with the competent tax authority at where the ROC Central Government is located.

Article 24-1

Except for charitable trusts prescribed in Article 20 herein, if the settlor has transferred property to the trust that is subject to gift tax as stipulated in Article 5-1 herein, the date of gift event shall be the date the trust deed is established or changed, and a gift tax return shall be filed in accordance with Paragraph 1 of Article 24.

Article 25

Where the same donor makes two or more gifts in the same calendar year that are subject to filing gift tax return, all gifts made in the same calendar and tax paid shall be reported in the latest gift tax return.

Article 26

Taxpayer of estate tax or gift tax may apply for an extension for filing tax return by submitting a written application supported with due causes prior to the lapse of the time limit prescribed in Articles 24, 24-1, and 25.
The aforesaid extension is limited to three months, or a period of time as approved by the tax authority in view of the actual situation in case of force majeure or other special circumstances.

Article 27

(deleted).

Article 28

Upon learning the fact of death or receiving the death report on a person, the tax authority should issue a notice to file return enclosed with an Estate Tax Filing Form to taxpayer within one month, asking the taxpayer to file the return before a certain date, and send the taxpayer a reminder notice in ten days before the prescribed deadline, reminding the taxpayer of the consequence of filing the return late.
Taxpayer is not relieved of his/her filing obligation as provided herein even if he/she has not received the aforesaid notice from the tax authority.

Article 29

The tax authority should, within two months from the date of receiving an estate or gift tax return, carry out investigation and valuation to determine tax due and issue a tax notice to the taxpayer, or request its superior agency for an extension before the aforesaid deadline if it is unable to complete the assessment in two months due to special circumstances.

Article 30

The taxpayer of estate tax or gift tax shall, within two months from the date of receiving the tax notice, pay the tax due, and if necessary, may apply to the competent tax authority for an extension of two months before the prescribed deadline.

In cases where the estate tax or gift tax payable amounts to $300,000 or more, and the taxpayer has difficulty paying the full amount in cash, the taxpayer may apply to the competent tax authority before the prescribed payment deadline for payment by eighteen (18) installments with an interval of no more than two months between each installment.

In cases where payment by installments has been approved by the tax authority, interest on the balance due calculated at the fixed interest rate for the one-year term postal savings deposit shall accrue from the next day of the prescribed payment deadline to the date of each payment. When there is change in interest rate, the new interest rate shall apply.

In cases where the estate tax or gift tax payable amounts to $300,000 or more, and the taxpayer has difficulty paying the full amount in cash, he or she may apply for permission to pay the deficient part of the tax in full by surrendering the taxed property which is located in the ROC or other easily cashable or storable property which is owned by the taxpayer. In case the tax property is not easily cashable or storable in the ROC, or the prevailing value on the date of application is lower than that on the date of death or the date of gift, the amount of tax which may be offset by such property shall be limited to the ratio of its value to the value of the total assessed property.

The amended provisions as detailed in paragraphs 2, 3, and 4 shall apply to unsettled cases which occurred prior to the amendment of this Act on 12th January, 2009; provided, however, that if the provisions prior to the amendment are more favorable to the taxpayer(s), such provisions prior to the amendment shall apply.

The valuation of the surrendered property according to Paragraph 4 of this Article shall be prescribed by the Ministry of Finance.

Where the property for paying estate tax in kind is jointly owned in common by the heirs under the Paragraph 4, and that property is solely owned by the decedent or with others in co-ownership, the application for estate tax payment may be submitted by the consent of half of the heirs whose holding of entitled portion is more than half of the total, or when

over two-thirds of the entitled portion of the heirs declare their consent in writing. It shall not apply to the Paragraph 3 of Article 828 of the Civil Code.

Article 31

(deleted).

Article 32

(deleted)

Article 33

Taxpayer of estate tax or gift tax who, in violation of Article 23 or 24 herein, fails to file the tax return as required before the prescribed deadline, or in violation of Article 26 herein, fails to apply for extension to file return, the competent tax authority should initiate investigation immediately, complete the investigation and determination of tax due within the time limit stipulated in Article 29 herein, and notify the taxpayer to pay tax pursuant to Article 30 herein.

Section 2
Article 34

(deleted).

Article 35

(deleted).

Article 36

(deleted).

Section 3 Investigation and Reporting

Article 37

Subsequent to accepting the application for registration of death, the household registration office should immediately send a copy of the death registration certificate to the tax authority.

Article 38

(deleted).

Article 39

If the tax authority discovers during investigation that the taxpayer evades estate or gift tax intentionally by fraudulent or other illicit means, it may ask the local judicial office with the description of course of event to conduct search, seizure or take other compulsory actions.

Article 40

If the decedent had a safe box or deposits with a financial or trust institution before death, and the heir or interested party may, following the established legal procedure, open the safe box or withdraw the deposits after the death of the decedent, they shall notify in advance to meet with the tax authority for the opening or withdrawal so that the tax authority may take count and register the content of the safe box or the amount of deposits.

Article 41

The competent tax authority should issue a tax payment certificate to the taxpayer of estate or gift tax after he/she has paid off the tax due as well as fines, delay penalty and interest, if any, or issue a tax exemption certificate if no tax is due. If, due to special reason, the taxpayer must transfer the title of a property before paying off the tax, he/she may apply to the tax authority for issuing a consent to transfer certificate with the provision of definitive guarantee for payment.

The tax authority should, if so requested by the taxpayer, issue an exclusion certificate for property excluded from gross estate pursuant to Article 16 herein or from total amount of gifts pursuant to Article 20 herein.

Article 41-1

In cases where there are two or more heirs to an estate and some heirs have paid their share of estate tax as well as fine, delay penalty and interest, if any, such heirs may apply to the tax authority for issuing a consent to transfer certificate for the purpose of registering co-ownership by inheritance for a real property. Said real property registered as co-ownership may not be split, disposed, hypothecated or have rights transferred before all tax payable on the property is paid off.

Article 42

When land administration, other government agency, or public or private enterprise records transfer of title of property due to inheritance or gift, it shall ask the applicant to present a photocopy of tax payment certificate, or tax exemption certificate, or exclusion from gross estate certificate, or exclusion from total amount of gifts issued by the competent tax authority, and turns down the request for recordation of title transfer if no such document is provided.

Chapter 5 Penalty

Article 43

The competent tax authority should reward the person a certain percentage of the fine who reports or informs against a taxpayer of estate or gift tax and other related parties for tax evasion or helping others evade tax by under-reporting, non-reporting, concealing information, or using fraudulent or other illicit means, and keep the identity of such person confidential.

Article 44

A fine that amounts to up to two times of the estate or gift tax due will be imposed on taxpayers who violate Article 23 or 24 herein for failing to file estate or gift tax return on time; a fine of $900 will be imposed if there is no tax due.

Article 45

A fine that amounts to up to two times of the estate or gift tax unreported or under-reported shall be imposed on taxpayers who have filed the estate or gift tax return on time.

Article 46

A fine that amounts to one to three times of the estate or gift tax calculated at the rate prevailing in the year of inheritance or at the time of gratuitous transfer shall be imposed on taxpayers who evade estate or gift tax intentionally by fraudulent or other illicit means, in addition to the estate or gift tax due.

Article 47

The fine stipulated in paragraphs 44, 45, and 46 together with tax due shall not exceed the value of gross estate or total amount of gifts.

Article 48

The competent authority should take rigorous disciplinary action against tax officers who violate the provisions of Article 29 herein and household registration officers who violate the provisions of Article 37 herein and order them to take remedial action swiftly; if the officer’s behavior involves criminal intent, the competent authority should take action in compliance with the Criminal Code and relevant laws.

Article 49

(deleted).

Article 50

Taxpayer who violates Article 8 herein for splitting, delivering to legatee(s), or carrying out recordation of title transfer before estate tax due is paid off, or carrying out recordation of title transfer before gift tax due is paid off shall be subject to a prison term of no more than one year.

Article 51

A delinquency charge penalty that amounts to one percent (1%) of estate or gift tax due for every two days of delay shall be imposed on taxpayers who fail to pay the estate tax or gift tax as determined by the tax authority in a timely manner pursuant to Article 30 herein; the tax authority should immediately forward the case to the court for compulsory execution, provided the tax owed is more than thirty (30) days past due; the court should initiate the proceeding within seven (7) days after receiving the case forwarded by the tax authority.

Interest on the aforesaid tax due and delinquency charge calculated at the interest rate for one-year term deposit quoted by the Postal Remittance & Savings Bank shall accrue daily from the next day following the prescribed payment deadline to the date of full payment and be collected together with the tax and delinquency charge owed.

Article 52

A private enterprise that, in violation of provisions of Article 42, fails to ask the applicant to provide a photocopy of estate or gift tax payment certificate, or tax exemption certificate, or exclusion from gross estate certificate, or exclusion from total amount of gifts certificate issued by the competent tax authority and proceeds to carry out recordation of title transfer due to inheritance or gift shall be subject to a fine of no more than $15,000; if the registration agency is a government agency or public enterprise, the competent authority shall take rigorous disciplinary action against the officer-in-charge and his/her immediate superior.

Article 53

(deleted).

Chapter 6 Supplemental Provisions

Article 54

(deleted).

Article 55

The enforcement rules of this Act shall be prescribed by the Ministry of Finance.

Article 56

The format of forms specified in this Act shall be determined by the Ministry of Finance.

Article 57

(deleted).

Article 58

Matters with respect to the imposition of estate tax and gift tax not specified herein shall be governed by other acts.

Article 58-1

After the articles amended on 12th January, 2009 came into force, substantial losses so incurred in the annual tax revenue to be allocated to the local government in accordance with the Act Governing the Allocation of Government Revenues and Expenditures shall be made up by the central government before the Act Governing the Allocation of Government Revenues and Expenditures is modified to increase the scale of the central distribution fund, notwithstanding the provisions of Article 23 of the Budget Act regarding the restriction on debt financing used for ordinary expenditure.

The substantial tax loss as stipulated in paragraph 1 shall be the difference calculated by subtracting tax revenue collected by the local government in the current year when the amendment came into fore or in each coming year from the average of estate and gift tax collected by the local government for the last three years before the amendment of this Act on 12th January, 2009, and rounding off to the nearest $ 10,000.

Article 59

This Act shall come into force from the date of promulgation.

The effective date of articles of this Act amended on 29 May, 2001 shall be determined by the Executive Yuan.

Data Source：Ministry of Finance, R.O.C. Laws and Regulations Retrieving System