

For office use only



New York State Department of Taxation and Finance

TP-400-A

(12/95)

New York State Short Form Gift Tax Return

Donor's last name	First name	Middle initial	Social security number
Mailing address (number and street or rural route)		Apartment number	Calendar year
City, village or post office		State	ZIP code
When the gift(s) was made, the donor was a <input type="checkbox"/> Resident <input type="checkbox"/> Nonresident of New York State			

- If the donor is deceased, enter the date of death: \_\_\_\_\_  
month                      day                      year
- If you have ever filed a gift tax return under another name, enter that name here: (e.g., maiden name) \_\_\_\_\_
- Have you filed a New York gift tax return for any prior calendar periods for gifts made after January 5, 1972?  Yes  No
- If your spouse is not a U.S. citizen, did you transfer any property to him or her during the calendar year?  Yes  No
- Is your spouse filing a gift tax return for this calendar year?  Yes  No
- Gifts by husband or wife to third parties** - Did you and your spouse consent to gift splitting on your federal gift tax return for gifts made during the calendar year to third parties?  Yes  No

Name of spouse	Spouse's social security number
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Signature of consenting spouse \_\_\_\_\_

<b>Paid Preparer's Use Only</b>	Preparer's signature	Date	Check if self-employed <input type="checkbox"/>	<b>Sign Your Return</b>	Signature of donor	Date
	Firm's name (or yours; if self-employed)	Preparer's social security number				
	Address	Employer identification number				

Mail your return to: NYS TAX DEPARTMENT, GIFT TAX PROCESSING, P O BOX 397, ALBANY NY 12201-0397.

A copy of your federal gift tax return, Form 709-A or Form 709, along with all supporting schedules and documents, must be attached to this return.

Instructions

General Information

Form TP-400-A is a short form gift tax return used to elect gift splitting for gifts made by a husband and wife to third parties. The gifts must be of a present interest and may not exceed \$20,000 to each donee (recipient) in a calendar year.

If both spouses split a gift for federal purposes, the gift must be split for New York State purposes. Consent of the non-donor spouse must be indicated by signing in the space provided above.

If you and your spouse agree to split your gifts, all gifts (including gifts of property held with your spouse as joint tenants or tenants by the entirety) made by either of you to third parties during the calendar year will be considered as made one-half by each of you

if the following qualifications are met: (1) you and your spouse were married to one another at the time of the gift; (2) if divorced or widowed after the gift, you did not remarry during the rest of the calendar year; (3) neither of you was a nonresident alien at the time of the gift; and (4) you did not give your spouse a general power of appointment over the property interest transferred.

The executor for a deceased spouse or the guardian for a legally incompetent spouse may sign the consent. If the consenting spouse dies during the calendar year in which the gifts are made, the consent to split the gifts applies only to those gifts made before the death of the consenting spouse.

Consent may be signified by both spouses at any time after the close of the calendar year with the following exceptions:

- The consent may not be signified after April 15 of the year following the calendar year of the gifts, unless the return is the first tax gift tax return filed by either spouse for that calendar year.
- The consent may not be signified after a notice of deficiency has been mailed to either spouse for the tax on the gifts for that calendar year.

If you and your spouse consent to split gifts, either or both of you will be liable for any gift tax determined to be due.

### When to Use This Form

You may file Form TP-400-A if you qualify to file federal Form 709-A and you did not make certain gifts to your spouse, who was not a U.S. citizen at the time the gifts were made. Otherwise, you must file Form TP-400, *New York State Gift Tax Return*.

If you made gifts during the calendar year to your spouse, **who was not a U.S. citizen** at the time, and the gifts were: of a future interest in any amount; of a present interest only and in excess of \$10,000; or of a combination of present and future interests of any amount, you must file Form TP-400 and report those gifts. This differs from the federal rule for reporting such gifts, which does not require a return to be filed unless the gifts include a future interest, or are of a present interest only and exceed \$100,000.

Refer to the instructions, TP-400-I, for additional information on reporting gifts to a non-U.S. citizen spouse, and gifts that are not subject to gift tax.

### When to File

The return must be filed on or before April 15 following the close of the calendar year, unless an extension of time for filing the return has been granted. If any due date falls on a Saturday, Sunday or legal holiday, the return is due on the next business day.

### Completing Your Return

Fill in the donor's information and answer the questions provided.

The donor and the consenting spouse must sign the return in the areas provided.

Attach a signed copy of your federal gift tax return.

It is not necessary to make any adjustments to the federal figures, as the gifts by you and your spouse to third parties must not exceed the amount of your combined annual exclusions.

### Where to File

Mail your return to:

**NYS TAX DEPARTMENT  
GIFT TAX PROCESSING  
PO BOX 397  
ALBANY NY 12201-0397**

### Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions and forms, is found in Articles 22, 23, 26, 26-A, 26-B, 30, 30-A and 30-B of the Tax Law, Article 2-E of the General City Law and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer tax liabilities due the state and city of New York and city of Yonkers. We will also use this information for certain tax offset and exchange of tax information programs authorized by law, and for any other purpose authorized by law.

Information concerning quarterly wages paid to employees and identified by unique random identifying code numbers to preserve the privacy of the employees' names and social security numbers will be provided to certain state agencies for research purposes to evaluate the effectiveness of certain employment and training programs.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Data Management Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone (from New York State only) 1 800 CALL TAX (1 800 225-5829); from areas outside New York State call (518) 438-8581.