

# IRS Factors Calculator

Software and User Manual

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# Table of Contents

## Chapter 1 7 *Introducing the IRS Factors Calculator* ..... 7

<b>Welcome to the IRS Factors Calculator</b>	<b>7</b>
<b>Installation</b>	<b>7</b>
<i>Installing the Program</i>	7
<i>Uninstalling the Program</i>	8
<b>What do I See on the Screen?</b>	<b>8</b>
Title Bar	8
Menu Bar	8
Toolbar	8
Data Input Buttons	9
Results Box	9
Hint Line	9
<b>Shortcut Keys</b>	<b>9</b>

## Chapter 2 11 *Working with Files* ..... 11

<b>Frequently Used Procedures</b>	<b>11</b>
<i>Create a New File</i>	11
<i>Open an Existing File</i>	11
<i>Save a File</i>	11
<i>Save an Existing File (Save As)</i>	11
<i>Clear Data Entry</i>	12
<i>Exit the Program</i>	12
<i>Update the AFR Table Manually</i>	12
<i>Download AFR Rates</i>	12
<i>Turn Off Required \$7520 Rate Rounding</i>	12

## Chapter 3 13

*Calculating Annuity, Life Estate and Remainder Factors* 13

Factors Section	13
Private Annuity	14
Life Estate	15
Remainder Interest	15

## Chapter 4 17

*Calculating Taxable Gift Values for GRATs*..... 17

GRAT Section	17
Grantor Retained Annuity Trust (GRAT)	18

## Chapter 5 23

*Calculating Taxable Gift Values for GRUTs* ..... 23

GRUT Section	23
Grantor Retained Unitrust (GRUT)	24

## Chapter 6 29

*Calculating Taxable Gift Values for GRITs/QPRTs*..... 29

GRIT/QPRT Section	29
GRIT/Qualified Personal Residence Trust (QPRT)	30

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<b>Chapter 7</b>	<b>33</b>
<i>Calculating Last-To-Die, One Survives Another, and First-To-Die Factors.....</i>	<i>33</i>
<b>Examples Section</b>	<b>33</b>
<b>Chapter 8</b>	<b>35</b>
<i>Calculating Factors Using IRS Tables.....</i>	<i>35</i>
<b>Tables Section</b>	<b>35</b>
<b>IRS Tables</b>	<b>36</b>
<b>Chapter 9</b>	<b>37</b>
<i>Viewing, Formatting, and Printing Reports.....</i>	<i>37</i>
<b>Calculation Results</b>	<b>37</b>
<b>Report Options Window</b>	<b>37</b>
<i>Access the Report Options Window</i>	<i>37</i>
<i>Create a Heading for a Report</i>	<i>37</i>
<i>Include the Heading on Printed Reports</i>	<i>37</i>
<i>Format the Text of a Report</i>	<i>38</i>
<i>Format Page Margins</i>	<i>38</i>
<i>Print the Date and Time</i>	<i>38</i>
<b>Print Preview Window</b>	<b>39</b>
<i>Preview Reports</i>	<i>39</i>
<b>Printing Window</b>	<b>39</b>
<i>Access the Printing Window</i>	<i>39</i>
<i>Print a Report</i>	<i>40</i>
<i>Save a Report as a Text File</i>	<i>40</i>
<i>Save a Report as a Spreadsheet File</i>	<i>40</i>
<i>Set up a Printer</i>	<i>40</i>

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**Chapter 10** **41**  
*Reference Material* ..... 41

<b>§2702</b>	<b>41</b>
<b>Applicable Federal Rates</b>	<b>41</b>
<i>Update the AFR Table Manually</i>	42
<i>Download AFR Rates</i>	42
<i>Turn Off Required §7520 Rate Rounding</i>	43
<i>Print the AFR Table</i>	43
<i>Save the AFR Data File to Another Location</i>	43
<b>Calculation Types</b>	<b>44</b>
<b>Exhausting Annuities</b>	<b>45</b>
Exact Method	46
Annuity Factor Method	46
<b>IRS Notice 89-60</b>	<b>47</b>
<b>Reg. §25.7520-3(b)(2)(v), Example 5</b>	<b>49</b>
<b>Treasury Decision 8819</b>	<b>50</b>

**Chapter 11** **53**  
*Getting Help* ..... 53

<b>Help Menu</b>	<b>53</b>
<b>Help System</b>	<b>53</b>
<b>Technical Support</b>	<b>53</b>
<b>Program Updates</b>	<b>54</b>

License Agreement 55

Index 57



# Chapter 1

## *Introducing the IRS Factors Calculator*

### Welcome to the IRS Factors Calculator

This program completely eliminates your need to wade through the IRS publication 1457 (7-1999), the Aleph volume. The IRS Factors Calculator calculates the values of annuities, life estates, and remainders (term, one, or two lives). The program includes all of the examples contained in the Aleph volume and calculates all of the factors contained in the following tables: Table H (Aleph, Alpha), Table C (Gimel), Table K, Table 80CNSMT, Table 90CM, Table V, and Table VI. The IRS Factors Calculator also calculates the taxable gift values for Grantor Retained Income Trusts (GRITs)/Qualified Personal Residence Trusts (QPRTs), Grantor Retained Annuity Trusts (GRATs), and Grantor Retained Unitrusts (GRUTs). The program includes a table of the IRS' Applicable Federal Mid-Term 120% Annual Rates (AFRs) from 1989, so it's easy for you to find a past rate or update the table monthly.

All calculations are independent of each other. That means you don't have to worry about data transferring between sections as you switch from calculating a remainder to calculating a factor from Table H.

Results appear in the same window as your data entry, and you can even format and print the results as reports for your clients.

### Installation

Getting started with the IRS Factors Calculator is easy. Before you install the program, be sure that you're running a Windows 95 or later operating system. The IRS Factors Calculator does not run on Windows 3.1 or earlier operating systems.

#### *Installing the Program*

1. Insert the disk into the disk drive.
2. On the Windows Taskbar, click the **Start** button.
3. On the **Start** menu, click **Run**. The Run dialog box appears. In the **Open** box, A:\SETUP.EXE should appear. If it doesn't, type A:\SETUP.EXE.
4. Click OK.
5. The setup program begins. Follow the instructions in the setup program.

### Uninstalling the Program

1. On the Windows Taskbar, click the **Start** button.
2. Point to **Settings** and click **Control Panel**. The Control Panel window appears.
3. Click **Add/Remove Programs**. The Add/Remove Program Properties dialog box appears.
4. Use the scrollbar to find the Pension Distributions Calculator. When you find it, click the program title. Notice that the **Add/Remove** button is now functional.
5. Click the **Add/Remove** button. The uninstall program begins. Follow the instruction in the uninstall program.

### What do I See on the Screen?

When you run the program, the IRS Factors Calculator window opens.

#### Title Bar

The title bar appears at the top of the window. It contains the following information.

- Program title
- Program version number
- Input section title
- File name (if the file has been saved)

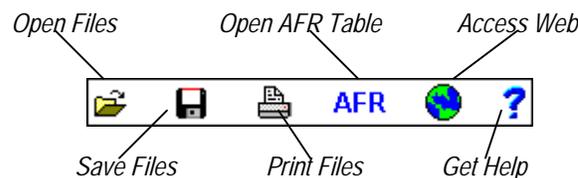
#### Menu Bar

The **Menu** bar is below the title bar. The **Menu** bar contains three menus you use to select program commands.



#### Toolbar

The **toolbar** is below the **Menu** bar. The **toolbar** contains graphics as commands. You can click these graphics instead of using the related **Menu** bar commands.



## Data Input Buttons

In the left side of the window, six buttons appear. Use these buttons to access the data entry sections of the program. As you click each button, its corresponding data input section appears in the right side of the window.

## Results Box

Below each data entry section is a results box. As you enter information, you can see the results of the calculations, all in one window.

## Hint Line

At the bottom of the screen is the Hint line. As you move the pointer over input boxes or other areas of the window, the Hint line displays a description or instructions for the box or area.

## Shortcut Keys

Use the function keys for frequently used program commands.

<b>F1</b>	Access the online help system.
<b>F2</b>	Save files.
<b>F3</b>	Open files.
<b>F4</b>	Access the AFR table.
<b>F7</b>	Clear data.
<b>Alt C</b>	Access Help Contents.
<b>Alt S</b>	Search Help Index.
<b>Alt U</b>	Learn how to use Help.
<b>Alt X</b>	Exit the program.
<b>Ctrl P</b>	Print files.
<b>Ctrl R</b>	Access Report Options.
<b>Ctrl S</b>	Save file as another name.
<b>Ctrl T</b>	Set up a printer.
<b>Ctrl V</b>	Preview reports



# Chapter 2

## *Working with Files*

### Frequently Used Procedures

Refer to this chapter to view instructions for procedures that you'll frequently use when working with files.

#### *Create a New File*

- On the **File** menu, click **New**. The program clears all previous data entry and resets the program's default values.

#### *Open an Existing File*

1. On the **File** menu, click **Open**. Or on the toolbar, click the **Open** graphic. The **Open** dialog box appears.
2. In the **File name** box, enter the name of the file and proper extension. Be sure you have selected the proper drive and folder of your file.

#### *Save a File*

1. On the **File** menu, click **Save**. Or on the toolbar, click the **Save** graphic. The **Save** dialog box appears.

If the file has not been saved before, the **Save As** dialog box appears.

2. Select the drive and folder in which to save the file.
3. In the **File name** box, type a name for the file. The program automatically adds the proper extension to the file name.

#### *Save an Existing File (Save As)*

1. Open an existing file or create a new file.
2. On the **File** menu, click **Save As**. Or on the toolbar, click the **Save** graphic. The **Save As** dialog box appears.
3. Select the drive and folder in which you want to save the file.
4. In the **File name** box, enter a name for the new file. The program automatically adds the proper extension to the file name.

### Clear Data Entry

1. On the **Edit** menu, click **Clear Inputs**. A Warning appears.
2. Click **Yes** to reset the default values. If you click **No**, you will not clear your data.

### Exit the Program

- On the **File** menu, click **Exit**. The program closes.

**Note**

*Be sure to save any open files before clicking the **Exit** command.*

### Update the AFR Table Manually

1. In the AFR Table, click the table cell corresponding to the year and month that you want to update.
2. Enter the AFR. You can find the AFRs in the **Wall Street Journal**. See the Federal Interest Rates in the Money and Investing section of the Journal, generally between the 18th and 23rd of the preceding month. Or visit the Brentmark website at **www.brentmark.com**
3. Press **Enter** or click another box to confirm your entry. The program automatically saves your entries.

### Download AFR Rates

1. Open the AFR Table.
2. Click **Download Latest AFRs**. A Confirm message appears.
3. Click **Yes** to begin updating the AFR Table from the Brentmark website.

**Note**

*If you have Internet access through an Internet Service Provider (ISP) such as AOL, Compuserve, or Prodigy, you must establish connection through your ISP before downloading the AFRs. If you're connected to the Internet through a network or a cable modem, your Internet connection is already established.*

### Turn Off Required §7520 Rate Rounding

The calculations in this program require you to use AFR rates. When you enter AFRs, the program follows the IRS practice of rounding the rate up to the nearest two tenths of one percent (as per Code §7520). For example, 10.10% rounds to 10.2%. You can find appropriate rates in the AFR Table. You can, however, turn rounding off.

- To turn off the required rounding, on the **Edit** menu, click **Turn Off Required §7520 Rounding**. When you turn off rounding, the words **No Rounding** appear next to the **§7520 Rate** box.

**Note**

*You cannot turn off rounding for the GRAT, GRUT, GRIT/QPRT calculations.*

# Chapter 3

## Calculating Annuity, Life Estate and Remainder Factors

### Factors Section

Click the Factors button on the left side of the window to calculate Annuity, Life Estate and Remainder Factors. An image of the Factors section appears below. The program only allows you to enter the data appropriate to the type of calculation that you select.

**Factors**

**Annuity Factors**

**Life Estate & Remainder**

Transfer Date:

\$7520 Rate:

Calculation Type:

Aggregate Annual Payments:

Payment Timing:

Lives:     Age:     Second Age:

Term:                        Sensitivity Report?

Input	Description
Annuity Factors	Click this radio button to calculate Annuity Factors.
Life Estate & Remainders	Click this radio button to calculate Life Estate & Remainder Factors.
Transfer Date	Enter the month and year that the transfer takes place. For example, enter 8/1999 for August 1999. If <b>Transfer Date</b> is 5/1999 or 6/1999, the <b>Table</b> box appears. Click the <b>Mortality table</b> that you want to use. For dates prior to May 1, 1999, the program automatically uses the <b>80CNSMT</b> mortality table. For dates after June 30, 1999, the program automatically uses the <b>90CM</b> mortality table. For more information, see Treasury Decision 8819.
\$7520 Rate	In the <b>\$7520 Rate</b> box, enter an AFR rate. Notice that the program automatically displays the rate that is most favorable. You can override the program's value by entering another rate. If the box displays 30%, you need to update the AFR Table.

Calculation Type	Select the type of calculation that determines how long the grantor will receive annuities. See the discussion of Calculation Types in Chapter 10, <i>Reference Material</i> .
Aggregate Annual Payments/Principal	Enter the total payments for the year. If you're calculating a Life Estate or Remainder, this box is labeled <b>Principal</b> . Enter the value of all assets in the fund.
Payment Timing	Click <b>Begin</b> if annuities are paid at the beginning of the year. Click <b>End</b> if annuities are paid at the end of the year.
Lives	Enter the number of lives on which the trust is based.
Age	Enter the age of the grantor.
Second Age	Enter the age of the second person on whom the trust is based.
Term	Enter the number of years for which the trust has been established.
Sensitivity Report	Click the <b>Sensitivity Report?</b> check box to view results in a sensitivity report.

## Private Annuity

A private annuity is an agreement between two parties. One party (the transferor-annuitant) signs over complete ownership of property to another party (the transferee-payer). In return, the transferee makes periodic payments to the transferor for a specified period of time (usually the lifetime of the transferor).

The private annuity is a useful tool for an individual who wants to spread out, over his or her lifetime, payments from selling a highly appreciated asset.

The private annuity is also a useful federal estate tax saving tool because payments end when the transferor dies, and the entire value of the asset sold is immediately removed from the transferor's gross estate. The private annuity allows someone who owns non-income-producing property to make that property productive.

- The ideal situation is one that meets the following criteria:
- The transferor is in a high estate tax bracket or has no marital deduction.
- The property is capable of producing income and/or is appreciating rapidly.
- The payer is capable of paying the promised amounts.
- The parties trust each other (the private annuity must be unsecured).
- The transferor has other assets and sources of income.

Single & joint life annuity factors are used for private annuities, charitable remainder annuity trusts and charitable gift annuities. These life annuity factors are adjusted by a period factor when payments are made other than at the end of an annual period. If payments start at the beginning of a period, the value includes the first payment.

Term certain annuity factors are used for charitable remainder annuity trusts. The term certain annuity factor is adjusted by a period factor when payments are made other than at the end of an annual period. Different period factors are used when payments start at the beginning or end of the period.

## Life Estate

A life estate is the right to use, possess, and enjoy property or the income it produces for the life of a specified person. That measuring life can be the life of the holder of the interest or may be measured by the life of some other person. A life estate can be payable for more than one life. For example, the right to live on or enjoy the income from property (in or out of trust) can extend for the joint lives of the client and his spouse. The life income beneficiary receives no right to enjoy the principal. A life estate ends at the death of the measuring life. But if one person holds a life estate (parent) and another person is used as the measuring life (child), the holder of the estate could give it away, sell it, or leave it in his or her will. Then the life estate continues in the new owner's hands—until the death of the measuring life

## Remainder Interest

A remainder interest is the right to use, possess, or enjoy property when the prior interest (term or life) ends. Typically, a remainder interest is valued by subtracting the present value of the prior interest from the fair market value of the property.



# Chapter 4

## Calculating Taxable Gift Values for GRATs

### GRAT Section

Click the GRAT button on the left side of the window to calculate taxable gift values for GRATs. An image of the GRAT section appears below.

Grantor Retained Annuity Trust	
Transfer Date:	5/2000
\$7520 Rate:	30.00%
Grantor's Age(s):	65 0 (0 if none)
Calculation Type:	Shorter
Term:	10
Principal:	\$1,000,000
Exhaustion Method:	IRS
Percentage Payout:	5.00000%
Apply §2702?:	Yes
Annual Payment Growth:	0.00%
Reversion?:	Yes
Payment Period:	Annual
Payment Timing:	End

Input	Description
Transfer Date	Enter the month and year that the transfer takes place. For example, enter 8/1999 for August 1999. If <b>Transfer Date</b> is 5/1999 or 6/1999, the <b>Table</b> box appears. Click the <b>Mortality table</b> that you want to use. For dates prior to May 1, 1999, the program automatically uses the <b>80CNSMT</b> mortality table. For dates after June 30, 1999, the program automatically uses the <b>90CM</b> mortality table. For more information, see Treasury Decision 8819.
\$7520 Rate	In the <b>\$7520 Rate</b> box, enter an AFR rate. Notice that the program automatically displays the rate that is most favorable. You can override the program's value by entering another rate. If the box displays 30%, you need to update the AFR Table.
Calculation Type	Select the type of calculation that determines how long the grantor will receive annuities. See the discussion of Calculation Types in Chapter 10, <i>Reference Material</i> .
Principal	Enter the fair market value of the assets in the trust.
Percentage Payout	Enter the percentage of the trust that grantor receives annually.

Annual Payment Growth	Enter the annual percent increase of the assets in the trust.
Payment Period	Select the frequency of annuity payments.
Payment Timing	Click <b>Beginning</b> if annuities are paid at the beginning of the year. Click <b>Ending</b> if annuities are paid at the end of the year.
Grantors Age(s)	Enter the age(s) of the person(s) that are measuring the trust. If only one age is being used to measure the trust, enter zero in the box on the right side.
Term	Enter the number of years for which the trust has been established.
Exhaustion Method	Click <b>IRS</b> or <b>Exact</b> . See <i>Exhausting Annuities</i> in Chapter 10, <i>Reference Material</i> .
Apply §2702?	Click <b>Yes</b> or <b>No</b> . See §2702 in Chapter 10, <i>Reference Material</i> .
Reversion?	Click <b>Yes</b> if any assets will return to the grantor's estate. Click <b>No</b> if the no assets will return to the grantor's estate.

## Grantor Retained Annuity Trust (GRAT)

A Grantor Retained Annuity Trust (GRAT) provides the grantor with a fixed annuity interest in an irrevocably transferred property. The remainder interest generally passes to the grantor's designated beneficiaries at the end of a specified term or at the earlier of the end of a specified term or the grantor's death.

GRATs provide a fixed annuity payment, usually expressed as a fixed percentage of the original value of the assets transferred in trust. For example, if \$100,000 is placed in trust and the initial annuity payout rate is 6 percent, the trust would pay \$6,000 each year, regardless of the value of the trust assets in subsequent years. If income earned on the trust assets is insufficient to cover the annuity amount, the payments will be made from principal. Therefore, the client-transferor is assured steady and consistent payments (at least until principal is exhausted).

All income and appreciation in excess of that required to pay the annuity accumulate for the benefit of the remainder beneficiary(ies). Consequently, it may be possible to transfer assets to the beneficiary(ies) when the trust terminates with values that far exceed their original values when transferred into the trust and, more importantly, that far exceed the gift tax value of the transferred assets.

The gift tax value of the transferred assets is determined at the time the trust is created and funded using the "subtraction method. The gift tax value is determined by subtracting the value of the annuity interest (and, in some cases, other retained interests, such as the right to have the assets revert back to the transferor's estate if he or she does not live the entire term of the trust) from the fair market value of the assets transferred in trust. The ways in which annuity interest and any other retained interests are valued depend on who the remainder beneficiary(ies) is (are) and who

retains the annuity and other interests relative to the transferor. There is a more restrictive and less appealing set of valuation rules when family members are beneficiaries and certain family members retain interests in the property both before and after the trust is created than when unrelated parties are involved.

When unrelated parties are involved, all interests are valued according to their actuarial present values using the valuation rules of IRC §7520. These rules mandate the use of a discount rate based on the 120% Applicable Federal Annual Midterm Rate for the month in which the trust is created and funded. The mortality factors from Table 80CNSMT or Table 90CM, if the interests have a life contingency, are also used.

**Note**

*For May or June of 1999, you had the choice of using the Mortality Table 80CNSMT or the Mortality Table 90CM. For any dates prior to May 1, the program will automatically use the 80CNSMT mortality table. For any dates after June 30, the program will automatically use the 90CM mortality table.*

The 120% Applicable Federal Annual Midterm Rate changes monthly and is reported in the IRS's Cumulative Bulletin, in various tax services, and in various financial news publications such as The Wall Street Journal. (See Fed Interest Rates in the Money & Investing section, generally between the 18th and 23rd of the preceding month). You can also obtain this rate by visiting Brentmark's Web site at [www.brentmark.com](http://www.brentmark.com).

If family members are involved, the gift tax valuation rules of IRC §2702 may apply. Under these rules, certain types of retained interests, such as the right to have trust assets revert to the transferor's estate in the event of the transferor's premature death, may be valued at zero when computing the gift tax value of the transfer. As a general rule, every retained interest but a "qualified interest is assigned a value of zero for gift tax valuation purposes. In the case of a GRAT, a qualified interest is the right to receive "fixed amounts payable annually, more frequently (a fixed annuity), or a qualified remainder interest. That is, any non-contingent remainder interest if all other interests in the trust consist of qualified retained interests (qualified annuities).

The right to receive a "fixed amount means the annuity must be a specified fixed dollar amount or a fixed percentage of the initial value of the trust payable each year rather than merely the income produced by the assets in the trust. Although fixed payments throughout the term of the trust are the norm, final regulations define the term "fixed amount more liberally. They would permit the annuity payments to increase or decrease in a systematic manner each year without adverse gift tax consequences. However, the annuity amount may not increase by more than 20 percent over the prior year. For example, if the initial annuity payment is \$1,000, the trust could provide that annuity payments in subsequent years increase by as much as 20 percent, to \$1,200 in the second year, \$1,440 the third year, and so on. If the transferor retains the right to the greater of a fixed amount or the trust income in each year for a term of years, the annuity will still be a qualified annuity. However, the right to the trust income, if any, in excess of the fixed amount is valued at zero for gift tax purposes. Thus, the retained interest is valued for gift tax purposes as if it did not include any rights to excess income.

#### Term Calculations and the Regulations

According to the Regulations, the retained annuity interest's value cannot exceed the actuarial value of an annuity for the shorter of the specified term or life, even if the trust instrument itself calls for payment of a term-certain annuity. Therefore, when you run a Term case with the

program, you will see three Taxable Gift values. The first is based solely on a Term Interest valuation (Taxable Gift 1) and is not supported by the Regulations. Some commentators suggest that this is the correct approach and that the Regulations are incorrect. The program then shows a Taxable Gift as per Reg. §25.2702-3(e), Ex. 5 (Taxable Gift 2) which is a shorter of term or life valuation. This more conservative value generally is a higher taxable gift value than would result otherwise. Finally, the program shows a Taxable Gift limited by Rev. Rul. 77-454 (Taxable Gift 3). When the exhaustion test of Rev. Rul. 77-454 starts to kick-in, it generally results in an even higher taxable gift value. The possible application of Rev. Rul. 77-454 in Term cases is dependent on the viewpoint that one must use a shorter of term or life valuation to begin with. If one did not need to use such a valuation, there would appear to be no argument for applying Rev. Rul. 77-454 at all.

Actuarially, the Example 5 values are rather straightforward unless you are running a case involving a payment made at the beginning of the period. For such cases, we use a Shorter of Term or Life calculation that has one less payment than usual. This is done to equalize the number of payments for the Shorter case with the Term case. Term cases with a payment at the beginning are valued actuarially by the IRS by simply adjusting the Frequency Adjustment Factor. For example, a two-year semiannual term valuation involves four payments at points 0, ½, 1 and 1½. However, Shorter of Term or Life cases (and for that matter, all cases with life contingencies) with a payment at the beginning of period are valued by the IRS by adding a payment to the normal end of the period valuation. For example, a two year semiannual shorter of term or life calculation involves five payments at points 0, ½, 1, 1½ and 2. Our revised Ex. 5 calculations eliminate the last payment (the one at point 2 in our example) by using a pro-rata valuation for a one-year case and a two-year case to eliminate the last payment. This valuation approach is based on informal consultations with the National Office of the IRS.

For all three GRAT calculation types, the program includes a Rev. Rul. 77-454 test (also known as the “exhaustion test”). The program also shows Taxable Gift if the value of Rev. Rul. 77-454 is ignored (some commentators suggest Rev. Rul. 77-454 is incorrect although it is now part of the §7520 Regs.). It then shows the Taxable Gift limited by Rev. Rul. 77-454. Often the values are the same. However, if the Rate of Annuity is higher than the Sec. 7520 rate, the Taxable Gift under Rev. Rul. 77-454 will often be higher. In some cases where the Annual Payment Growth value is negative, the Rev. Rul. 77-454 Taxable Gift value may actually be lower.

#### Rev. Rul. 77-454 Test

When Rev. Rul. 77-454 may apply for a Shorter of Term or Life calculation, the program includes a year-by-year Rev. Rul. 77-454 schedule. As for the mechanics of the 77-454 test, there are gray areas once you get beyond the simple case of an annual payment at the end of the period. The program uses an approach long followed for the similar Rev. Rul 77-374 test that is applied for Charitable Remainder Annuity Trust life cases. See George H. Moor Est., 43 TCM 1982-299, for the proposition that annual payments are adjusted by a payout frequency factor.

For the Shorter Calculation with Gift 2 selected for the Near Zero-Out option, the program finds the Rev. Rul. 77-454 value which does not increase the Taxable Gift beyond what it would be under Gift 1 (i.e., the Taxable Gift before consideration of Rev. Rul. 77-454).

## §2702 Rules

The more restrictive valuation rules apply if the transfer is to or for the benefit of a “member of the transferor's family and an interest in the trust is “retained by the transferor or an “applicable family member. A member of the transferor's family includes the transferor's spouse, ancestor, lineal descendent, an ancestor or lineal descendent of the spouse of the transferor, a brother or sister, and the spouse of any of these. A retained interest means a property interest held by the same individual both before and after the transfer in trust. An applicable family member is defined as the transferor's spouse, an ancestor of the transferor or an ancestor of the transferor's spouse, and the spouse of any such ancestor.

In summary, if the §2702 rules apply, the annuity must be for a fixed amount or a fixed percentage of the initial value of the trust for a specified term. The annuity will be considered for a qualified “fixed amount if the scheduled payment in any year does not exceed 120 percent of the prior year's payment. The specified term may be the life of the annuitant, a fixed term or the shorter of a fixed term or the life of the annuitant. Regardless of the specified term, the annuity is valued for gift tax purposes as if it were for the shorter of a fixed term or the life of the annuitant.

In other words, although the terms of the trust may specify that the annuity is to be paid for fixed and certain term of years, regardless of the survival of the annuitant, it must be valued for gift tax purposes as if it terminates upon the annuitant's death. Any other retained interest (other than the retention of a qualified remainder interest), including any rights to income or to a reversion of trust assets in the event of premature death, are valued at zero for gift tax purposes. Therefore, the gift tax value of the transfer is determined by subtracting the actuarial value of the qualified life-contingent annuity from the fair market value of the trust assets at the time the trust is created and funded.

If the transferor-annuitant survives the term of the GRAT, the assets transferred in trust are not included in the transferor's gross estate and escape estate taxation. However, if the transferor dies during the term of the trust, some or all of the trust's assets will be included in the transferor's gross estate. Although there is no statutory or regulatory authority on the issue, some experts think the maximum amount the IRS could include is the lesser of the entire trust corpus or the amount of corpus required to provide the promised annuity for the term (without invading principal).

This amount is computed by dividing the required annuity payment, for example, \$20,000, by the §7520 rate as of the date of the transferor-annuitant's death, say 7.6%, to derive the required capital, in this instance, \$263,158. A logical but more aggressive and uncertain argument can be made that the amount included should not exceed the present value of a term-certain annuity of the scheduled payments over the remaining term of the trust discounted at the §7520 rate. For example, if 3 years remained in the term of the trust, the present value of a \$20,000 term-certain annuity discounted at 7.6% would be only \$51,916. The risk of inclusion of trust assets should be covered by the purchase of life insurance owned by the appropriate beneficiary on the transferor's life.

Since the GRAT permits payment of both income and trust principal to satisfy the transferor-annuitant's annuity payments, the GRAT should be treated as a grantor trust for income tax purposes. This means the transferor-annuitant is taxed on income and realized gains on trust assets even if these amounts are greater than the trust's annuity payments. This further enhances

this tool's effectiveness as a family wealth-shifting and estate-tax-saving device. The transferor-annuitant is effectively allowed to make gift-tax free gifts of the income taxes that are actually attributable to assets backing the remainder beneficiary's interest in the trust.

# Chapter 5

## Calculating Taxable Gift Values for GRUTs

### GRUT Section

Click the GRUT button on the left side of the window to calculate taxable gift values for GRUTs. An image of the GRUT section appears below.

Grantor Retained Unitrust	
Transfer Date:	5/2000
§7520 Rate:	30.00%
Calculation Type:	Shorter
Principal:	\$1,000,000
Percentage Payout:	5.00000%
Annual Payment Growth:	0.00%
Payment Period:	Quarterly
Months Valuation Precedes Payout	3
Grantor's Age:	65
Term:	10
Apply §2702?:	Yes
With Reversion?:	Yes

Input	Description
Transfer Date	Enter the month and year that the transfer takes place. For example, enter 8/1999 for August 1999. If <b>Transfer Date</b> is 5/1999 or 6/1999, the <b>Table</b> box appears. Click the <b>Mortality table</b> that you want to use. For dates prior to May 1, 1999, the program automatically uses the <b>80CNSMT</b> mortality table. For dates after June 30, 1999, the program automatically uses the <b>90CM</b> mortality table. For more information, see Treasury Decision 8819.
§7520 Rate	In the <b>§7520 Rate</b> box, enter an AFR rate. Notice that the program automatically displays the rate that is most favorable. You can override the program's value by entering another rate. If the box displays 30%, you need to update the AFR Table.
Calculation Type	Select the type of calculation that determines how long the grantor will receive annuities. See the discussion of Calculation Types in Chapter 10, <i>Reference Material</i> .
Principal	Enter the fair market value of the assets in the trust.
Percentage Payout	Enter the percentage of the trust that grantor receives annually.

Annual Payment Growth	Enter the annual percent increase of the assets in the trust.
Payment Period	Select the frequency of annuity payments.
Months Valuation Precedes Payout	Enter the number of months between the annual valuation date and the date that the payout is made. This number directly relates to the frequency of payments: Enter 0 to 12 months for annual payment periods, 0 to 6 months for semiannual periods, 0 to 3 months for quarterly periods, and 0 or 1 for monthly periods.
Grantors Age	Enter the age of the grantor.
Term	Enter the number of years for which the trust has been established.
Apply §2702?	Click <b>Yes</b> or <b>No</b> . See §2702 in Chapter 10, <i>Reference Material</i> .
Reversion?	Click <b>Yes</b> if any assets will return to the grantor's estate. Click <b>No</b> if the no assets will return to the grantor's estate.

## Grantor Retained Unitrust (GRUT)

A Grantor Retained Unitrust (GRUT) provides the grantor with a fixed percentage of the value of the irrevocably transferred property (determined annually) for a fixed period of years. The remainder interest generally passes to the grantor's designated beneficiaries at the end of a specified term or at the earlier part of the end of a specified term or the grantor's death.

GRUTs provide an annuity payment equal to a fixed percentage of the current value each year of the assets in trust. In this sense, a GRUT is similar to a variable annuity. The payout rate is fixed, but since the value of the assets can be expected to vary year to year, the dollar annuity payout also varies year to year.

For example, if \$100,000 is placed in trust and the annuity payout rate is 5 percent, the trust would pay \$5,000 the first year. If the value of the assets in trust increase to \$110,000 in the subsequent year, the payout would be \$5,200, 5 percent of \$110,000. If income earned on the trust assets is insufficient to cover the annuity amount, the shortfall in payments will be made from principal. All income and appreciation in excess of that required to pay the annuity accumulate for the benefit of the remainder beneficiary(ies). Consequently, it may be possible to transfer assets to the beneficiary(ies) when the trust terminates with values that far exceed their original values when transferred into the trust and, more importantly, that far exceed the gift tax value of the transferred assets.

The gift tax value of the transferred assets is determined at the time the trust is created and is funded using the "subtraction method. To determine the gift tax value, subtract the value of the annuity interest (and, in some cases, other retained interests, such as the right to have the assets revert back to the transferor's estate if he or she does not live the entire term of the trust) from the

fair market value of the assets in trust. The valuation of the annuity interest and any other retained interests depends on who the remainder beneficiary(ies) is (are), and who retains the annuity and other interests relative to the transferor. There is a more restrictive and less appealing set of valuation rules when family members are beneficiaries and certain family members retain interests in the property both before and after the trust is created than when unrelated parties are involved.

When unrelated parties are involved, all interests are valued according to their actuarial present values using the valuation rules of IRC §7520. These rules mandate the use of a discount rate based on the 120% Applicable Federal Annual Midterm Rate for the month in which the trust is created and funded. The mortality factors from Table 80CNSMT or Table 90CM, if the interests have a life contingency, are also used.

**Note**

*For May or June of 1999, you had the choice of using the Mortality Table 80CNSMT or the Mortality Table 90CM. For any dates prior to May 1, the program will automatically use the 80CNSMT mortality table. For any dates after June 30, the program will automatically use the 90CM mortality table.*

The 120% Applicable Federal Annual Midterm Rate changes monthly and is reported in the IRS's Cumulative Bulletin, in various tax services, and in various financial news publications such as The Wall Street Journal. (See Fed Interest Rates in the Money & Investing section, generally between the 18th and 23rd of the preceding month). You can also obtain this rate by visiting Brentmark's Web site at [www.brentmark.com](http://www.brentmark.com).

If family members are involved, the gift tax valuation rules of IRC §2702 may apply. Under these rules, certain types of retained interests, such as the right to have trust assets revert to the transferor's estate in the event of the transferor's premature death, may be valued at zero when computing the gift tax value of the transfer. As a general rule, every retained interest but a "qualified interest is assigned a value of zero for gift tax valuation purposes. In the case of a GRUT, a qualified interest is the right to receive (1) amounts that are payable annually or more frequently and are a "fixed percentage (annuity payout rate) of the fair market value of the property in the trust (as revalued annually) or (2) a qualified remainder interest, that is, any non-contingent remainder interest if all other interests in the trust consist of qualified retained interests (qualified annuities).

The annuity must be a fixed percentage of the fair market value of the trust assets as revalued each year rather than merely the income produced by the assets in the trust. Although payments equal to an unchanging "fixed percentage of the trust assets is the norm, final regulations define the term "fixed percentage more liberally. They would permit the annuity payout rate to increase or decrease in a systematic manner each year without adverse gift tax consequences. However, the annuity payout rate in any year may not be more than 120 percent of the prior year's payout rate.

For example, the trust could provide that the annuity payout rate in each subsequent year would equal 120 percent of the prior year's rate. If the initial annuity payout rate is 5%, it could increase to 6% in the second year, 7.2% in the third year, and so on. If the transferor retains the right each year to the greater of a fixed percentage of the value of trust assets as revalued annually or the trust income for a term of years, the annuity will still be a qualified annuity. However, the right to the trust income, if any, in excess of the fixed percentage of trust assets is valued at zero for gift tax purposes. Thus, the retained interest is valued for gift tax purposes as if it did not include any rights to excess income.

Finally, under the §2702 rules, the retained annuity interests value cannot exceed the actuarial value of an annuity for the shorter of the specified term or life, even if the trust instrument itself calls for payment of a term-certain annuity.

These more restrictive rules apply if the transfer is to or for the benefit of a “member of the transferor's family and an interest in the trust is "retained" by the transferor or an "applicable family member. A member of the transferor's family includes the transferor's spouse, ancestor, lineal descendent, an ancestor or lineal descendent of the spouse of the transferor, a brother or sister, and the spouse of any of these. A retained interest means a property interest held by the same individual both before and after the transfer in trust. An applicable family member is defined as the transferor's spouse, an ancestor of the transferor or an ancestor of the transferor's spouse, and the spouse of any such ancestor.

In summary, if the §2702 rules apply, the annuity must be for a fixed percentage of the value of the trust assets as revalued each year for a specified term. The annuity will be considered for a qualified “fixed percentage if the scheduled payout rate in any year does not exceed 120 percent of the prior year's payout rate. The specified term may be the life of the annuitant, a fixed term, or the shorter of a fixed term or the life of the annuitant.

Regardless of the specified term, the annuity is valued for gift tax purposes as if it were for the shorter of a fixed term or the life of the annuitant. In other words, although the terms of the trust may specify that the annuity is to be paid for fixed and certain term of years, regardless of the survival of the annuitant, it must be valued for gift tax purposes as if it terminates upon the annuitant's death. Any other retained interest (other than a retention of a qualified remainder interest), including any rights to income or to a reversion of trust assets in the event of premature death, are valued at zero for gift tax purposes. Therefore, the gift tax value of the transfer is determined by subtracting the actuarial value of the qualified life-contingent unitrust annuity from the fair market value of the trust assets at the time the trust is created and funded.

If the transferor-annuitant survives the term of the GRUT the assets transferred in trust are not included in the transferor's gross estate and escape estate taxation. Although there is no statutory or regulatory authority on the issue, some experts think the maximum amount the IRS could include is the lesser of the entire trust corpus or the amount of corpus required to provide the promised unitrust amount for the term (without invading principal).

This amount is computed by dividing the adjusted unitrust payout rate, for example, 5%, by the §7520 rate for the month of the transferor-annuitant's death, say 7.6%, to derive the proportion of the trust's corpus that is includable for estate tax purposes, in this instance, 65.79 percent. A logical but more aggressive and uncertain argument is that the amount included should not exceed the present value of the expected unitrust annuity payments at the scheduled adjusted payout rate over the remaining term of the trust, assuming the assets are invested at the §7520 rate. For example, if 3 years remain in the term of the trust, the present value of a unitrust annuity interest with a 5% adjusted payout rate is only 0.142625. In other words, only 14.2625 percent of the trust assets are actually economically required to fund the unitrust annuity payments over the remaining 3-year term. In any event, the risk of inclusion of trust assets should be covered by the purchase of life insurance owned on the transferor's life by the appropriate beneficiary.

Since the GRUT permits payment of both income and trust principal to satisfy the transferor-annuitant's unitrust annuity payments, the GRUT should be treated as a grantor trust for income tax purposes. This means the transferor-annuitant is taxed on income and realized gains on trust assets even if these amounts are greater than the trust's unitrust annuity payments. This further

enhances this tool's effectiveness as a family wealth-shifting and estate-tax-saving device. The transferor-annuitant is effectively allowed to make gift-tax free gifts of the income taxes that are attributable to assets backing the remainder beneficiary's interest in the trust.



# Chapter 6

## Calculating Taxable Gift Values for GRITs/QPRTs

### GRIT/QPRT Section

Click the GRIT/QPRT button on the left side of the window to calculate taxable gift values for GRITs/QPRTs. An image of the GRIT/QPRT section appears below.

**Qualified Personal Residence Trust**

Transfer Date:

\$7520 Rate:

Term of Trust:

Number of Lives:

Age:

Principal:

With Reversion?:

Input	Description
Transfer Date	Enter the month and year of the transfer. For example, 8/1999. If <b>Transfer Date</b> is 5/1999 or 6/1999, the <b>Table</b> box appears. Click the <b>Mortality table</b> that you want to use. For dates prior to May 1, 1999, the program automatically uses the <b>80CNSMT</b> mortality table. For dates after June 30, 1999, the program automatically uses the <b>90CM</b> mortality table. For more information, see Treasury Decision 8819.
\$7520 Rate	Enter an AFR rate. Notice that the program automatically displays the rate that is most favorable. You can override the program's value by entering another rate. If the box displays 30%, you need to update the AFR Table.
Term of Trust	Enter the number of years for which the trust has been established.
Number of Lives	Enter the number of lives that on which the trust is based. If you enter 2 or more, the <b>Second Age</b> box appears.
Age/Second Age	Enter the age of the grantor. If the Second Age box appears, enter the age of the second person on which the trust is based.
Principal	Enter the fair market value of the assets in the trust.

With Reversion?

Click **Yes** if any assets will be returned to the grantor. Click **No** if assets will not return to the grantor.

## GRIT/Qualified Personal Residence Trust (QPRT)

This calculation determines the gift tax implications of establishing a Grantor Retained Income Trust (GRIT) or Qualified Personal Residence Trust (QPRT). Through this trust, the grantor retains an income interest in irrevocably transferred property, and the remainder interest is passed to the grantor's beneficiaries. These computations can be used for both residence trusts and qualified residence trusts and for GRITs transferring property to non-family members.

At the time the trust is funded, a future gift is made. The value of that gift is the excess of the value of the property transferred over the value of the interest retained by the grantor. The value of the retained interest is found by multiplying by the present value of an annuity factor for the number of years the trust will run.

For example, assuming a 7.6% discount rate, if the trust will run for ten years and \$100,000 is initially placed into the trust subject to a reversion, the value of the (nontaxable) interest retained by a 65 year old grantor would be \$64,590.

The value of the (gift taxable) remainder interest would be the value of the capital placed into the trust (\$100,000) minus the value of the nontaxable interest retained by the grantor (\$64,590). Therefore, the taxable portion of the grantor retained income trust gift would be \$35,410. This remainder interest, by definition, is a future interest gift and will not qualify for the annual exclusion. The donor will have to utilize all or part of the remaining unified credit (or if the credit is exhausted, pay the appropriate gift tax). If the grantor's income interest lasts long enough, however, the value of his or her retained interest would approach—actuarially—100 percent. This would essentially eliminate any gift tax liability.

The advantage of the GRIT is that it is possible for an individual to transfer significant value to family members but to incur little or no gift tax. In the example, the cost of removing \$100,000 from the gross estate (plus all appreciation from the date of the gift) is the use of \$35,410 of unified credit.

The GRIT is a “grantor trust. This means all income, deductions, and credits are treated as if there was no trust and these items were attributable directly to the grantor.

The entire principal (date of death value) must be included in the estate of a grantor who dies during the term of the GRIT since he has retained an interest for a period which, in fact, will not end before his death. If any gift tax had been paid upon the establishment of the GRIT, it would reduce the estate tax otherwise payable. If the unified credit was used, upon death within the term, the unified credit used in making the gift would be restored to the estate (if the grantor's spouse consented to the gift, his or her credit would not be restored).

The estate's beneficiary (possibly through gifts received from the GRIT grantor) could purchase life insurance on the life of the grantor. Then, if the grantor should die during the term of the GRIT there would be sufficient cash to pay any estate tax.

IRC Code §2702 has severely limited the use of GRITs. Non-family members can use GRITs for any type of asset for any term. Family members will find GRITs useful only when the property transferred is a personal residence or for some tangible property.



# Chapter 7

## Calculating Last-To-Die, One Survives Another, and First-To-Die Factors

### Examples Section

Click the Examples button on the left side of the window to calculate **Last-To-Die, One Survives Another, First-to-Die, One Life and Term, Two Lives and Term, and Pooled Income Funds** Factors. An image of the Examples section appears below. Depending on the Example type that you select, the inputs may vary slightly.

The screenshot shows a window titled "Examples" with a blue header. On the left, there is a list of radio button options: "Last-To-Die Factors" (selected), "One Survives Another", "First-To-Die", "One Life and Term", "Two Lives and Term", and "Pooled Income Funds". To the right of these options are four input fields: "Transfer Date:" with the value "5/2000", "§7520 Rate:" with the value "30.00%", "Age:" with the value "65", and "Second Age:" with the value "64".

Input	Description
Transfer Date	Enter the month and year of the transfer. For example, 8/1999. If <b>Transfer Date</b> is 5/1999 or 6/1999, the <b>Table</b> box appears. Click the <b>Mortality table</b> that you want to use. For dates prior to May 1, 1999, the program automatically uses the <b>80CNSMT</b> mortality table. For dates after June 30, 1999, the program automatically uses the <b>90CM</b> mortality table. For more information, see Treasury Decision 8819.
§7520 Rate	Enter an AFR rate. Notice that the program automatically displays the rate that is most favorable. You can override the program's value by entering another rate. If the box displays 30%, you need to update the AFR Table.
Age/Second Age	Enter the age of the grantor. If the example uses two lives, enter the <b>Second Age</b> .
Term	Enter the number of years for which the trust has been established.

Yearly Return

Enter the annual interest rate applied to the principal of the funds.

# Chapter 8

## *Calculating Factors Using IRS Tables*

### Tables Section

Click the **Tables** button on the left side of the window to calculate factors using the Tables shown in the image below. Depending on the Table that you select, the inputs may vary slightly.

**Table H**

- Table H (Aleph, Alpha)**
- Table C (Gimel)**
- Table K**
- Table V**
- Table VI**
- Table 80CNSMT**
- Table 90CM**

**Transfer Date:**

**§7520 Rate:**

**Age:**

**Second Age:**

Input	Description
Transfer Date	Enter the month and year of the transfer. For example, 8/1999. If <b>Transfer Date</b> is 5/1999 or 6/1999, the <b>Table</b> box appears. Click the <b>Mortality table</b> that you want to use. For dates prior to May 1, 1999, the program automatically uses the <b>80CNSMT</b> mortality table. For dates after June 30, 1999, the program automatically uses the <b>90CM</b> mortality table. For more information, see Treasury Decision 8819.
§7520 Rate	Enter an AFR rate. Notice that the program automatically displays the rate that is most favorable. You can override the program's value by entering another rate. If the box displays 30%, you need to update the AFR Table.
Age/Second Age	Enter the ages of for whom you are calculating factors.

## IRS Tables

Use the **Tables** button to calculate factors using the IRS tables that the program includes.

<b>Table</b>	<b>Description</b>
Table H (Aleph, Alpha)	Table H from IRS Publication 1457 (8-89) lists the $D_x$ , $\bar{M}_x$ , and $\ddot{N}_x$ factors.
Table C (Gimel)	Table C lists the factors for reducing assurances—based on Life Table 90CM.
Table K	Table K from IRS Publication 1457 (8-89) shows the adjustment factors for annuities payable at the end of annual, semi-annual, quarterly, monthly, and weekly periods.
Table 80CNSMT	Table 80CNSMT from IRS Publication 1457 (8-89) is a mortality table used to calculate annuity, life estate, and remainder factors.
Table 90CM	Table 90CM is also a mortality table used to calculate annuity, life estate, and remainder factors. As of May 1, 1999, the IRS released the 90CM mortality table. This table replaces the older 80CNSMT. Between May 1, 1999 and June 30, 1999 you can use either the 80CNSMT or the 90CM. After June 30, 1999, do not use the 80CNSMT (REG-103851-99).
Table V	Table V from Regulation Section 1.72-9 is used to calculate life expectancy factors when dealing with minimum distributions from a qualified pension plan or IRA.
Table VI	Table VI lists the multiples used to calculate life expectancies when dealing with distributions from a qualified pension plan or IRA.

# Chapter 9

## *Viewing, Formatting, and Printing Reports*

### Calculation Results

IRS Factors Calculator results appear in the same window as your data entry. You can print a report for each calculation. Also you can format and preview each report before printing.

### Report Options Window

Use the Report Options window to format your reports for printing. The Report Options window allows you to create headings, format text and layout, and include other options for printing.

#### *Access the Report Options Window*

- On the **File** menu, click **Report Options**.

#### *Create a Heading for a Report*

You may want to create a heading that includes client names, your name, or a description of the report.

1. In the Report Options window, click the **Heading** box.
2. Type the text that you want to display at the top of your printed report.

#### *Include the Heading on Printed Reports*

- In the **Printing Options** group box, click the **Print Heading** check box.

### *Format the Text of a Report*

Use the **Fonts** group box in the Report Options window to format the text of your reports. The **Fonts** group box contains three types of text to format: **Title**, **Body Text**, and **Headers**. The name of the font and its size appear next to each type. The text appears the color as it will on the printed report.

1. In the **Fonts** group box, click the text (**Title**, **Body Text**, or **Headers**) that you want to format. The **Font** dialog box appears.
2. Format the **Font**, **Style**, **Size**, and **Effects** of the text and click **OK**.
3. Notice the description of the text in the Report Options window has changed.

### *Format Page Margins*

Use the **Page Margins** group box in the Report Options window to format the layout of your reports. The **Page Margins** group box contains boxes for you to enter top, bottom, left, and right page margins.

- In the **Page Margins** group box, enter the **Top**, **Left**, **Bottom**, and **Right** margin settings (in inches).

### *Print the Date and Time*

- In the **Printing Options** group box, click the **Print Date** and/or **Print Time** check boxes.

## Print Preview Window

Use the Print Preview window to view reports before printing. If you've formatted your report using the Report Options window, the Print Preview window allows you to view the changes you've made before printing. If you don't like what you see, you can always go back and reformat the report.

### *Preview Reports*

- Click **Print Preview** on the **File** menu.
- Click **Print Preview** from the Printing window.

The Print Preview window has its own toolbar. Following are descriptions of the toolbar commands.

<b>Button</b>	<b>Description</b>
<Page	Click this button to display the previous page.
Page>	Click this button to display the next page.
Fit	Click this button to display the entire page in the window.
100%	Click this button to display the page at its actual size.
Print	Click this button to print the report. You will not have the option of formatting the report.

## Printing Window

Use the Printing window to print reports. You can print a report for each one of the program's calculations. The Printing window also allows you to save a report as a text or spreadsheet file.

### *Access the Printing Window*

There are two ways to access the printing window:

- On the **File** menu, click **Print**.
- On the toolbar, click the printer graphic.

### *Print a Report*

1. On the **File** menu, click **Print**. Or on the toolbar, click the **print** graphic. The Printing window appears. Notice that the program displays the selected printer.
2. Click the **Date** and **Time** check boxes to include the date and time on the report.

### *Save a Report as a Text File*

1. In the Printing window, click **Print to Text File**. The **Save As** dialog box appears.
2. From the **Save in** drop-down list, select the drive and folder in which you would like to save the file.
3. In the **File name** box, enter a name for the report file. The program saves the file with a .txt extension.

### *Save a Report as a Spreadsheet File*

1. In the Printing window, click **Print to WK1 File**. The **Save As** dialog box appears.
2. From the **Save in** drop-down list, select the drive and folder in which you would like to save the file.
3. In the **File name** box, enter a name for the report file. The program saves the file with a .wk1 extension

### *Set up a Printer*

1. Click **Printer Setup** on the **File** menu or in the Printing window.
2. For help using the Print Setup dialog box, click **?** in the title bar.
3. Move the cursor to the item with which you need help and click. A Help topic for that item appears.

# Chapter 10

## *Reference Material*

### §2702

Section 2702 provides that all retained interests in trusts that are not “qualified interests are valued at zero. The amount of any gift is then determined by subtracting from the value of the property the value of the retained interest. The valuation of retained interests in trust under §2702 specifically does not apply to incomplete gifts (determine without regard to whether there is consideration), personal residence trust, and charitable lead trusts. This occurs if the only interest other than the remainder or a qualified annuity or unitrust interest is the charitable lead interest.

Section 2702 also does not apply to assignment of remainder interests in trusts if the only retained interest is distribution of income in the sole discretion of an independent trustee, as defined in Code section 674(c), and certain property settlement agreements.

The following definitions apply under §2702:

- A member of the family includes the spouse of an individual, the ancestor, lineal descendant, sibling of an individual, the individual’s spouse, the spouse of any such person, or the brother or sister of the individual.
- An applicable family member includes the spouse of an individual, an ancestor of the individual or the individual’s spouse, or the spouse of any such person.
- A transfer in trust includes a transfer to a new trust or an interest in an existing trust. But, it is not a transfer resulting from exercise of a special power of appointment, exercise, release, or lapse of a power of appointment that would not constitute a taxable gift (e.g., lapse of Crummey power which does not exceed 5 or 5 limitation) or a disclaimer.
- A retained interest is one held by the same individual both before and after the transfer to the trust, or it is a carved out term interest.

### Applicable Federal Rates

Prior to May 1, 1989, a 10% interest rate was used to generate IRS factors for annuities, life estates and remainders. For May 1, 1989 or later transfers, the applicable interest rate changes each month and is determined by reference to the 120% Annual Mid-Term Applicable Federal Rate (AFR).

The calculations in this program require you to use AFR rates. When entering AFRs, the program follows the IRS practice of rounding the rate up to the nearest two tenths of one percent (as per Code Section 7520). For example, 10.10% rounds to 10.2%. You can find appropriate rates in the AFR Table. However, in some cases, you can turn rounding off.

When you loaded the IRS Factors calculator, you also loaded the AFR Table, a separate application that stores previous and present AFR rates. The AFR Table works seamlessly with the IRS Factors Calculator. You can use the AFR Table to view or print AFRs or to enter AFRs as they are released each month by the government. The AFR Table saves your entries in its own data file. You can save this data file to another location, such as a network directory. Placing the AFR Table on a network enables your whole office to use the data file, even if a Brentmark product is not being used.

While using IRS Factors Calculator, if the **§7520 Rate** box displays **30%**, you must update the AFR Table. Thirty percent is the default value that appears when there is not a current AFR rate available for the chosen **Transfer Date**. You can update the AFR Table manually, or you can download the rates from **www.brentmark.com**.

When you license the program, Brentmark has already programmed previous AFRs. You cannot change any of the entries that Brentmark has “locked in.

### *Update the AFR Table Manually*

1. In the AFR Table, click the table cell corresponding to the year and month that you want to update.
2. Enter the AFR. You can find the AFRs in the **Wall Street Journal**. See the Federal Interest Rates in the Money and Investing section of the Journal, generally between the 18th and 23rd of the preceding month. Or visit the Brentmark website at **www.brentmark.com**
3. Press **Enter** or click another box to confirm your entry. The program automatically saves your entries.

### *Download AFR Rates*

1. Open the AFR Table.
2. Click **Download Latest AFRs**. A Confirm message appears.
3. Click **Yes** to begin updating the AFR Table from the Brentmark website.

#### **Note**

*If you have Internet access through an Internet Service Provider (ISP) such as AOL, Compuserve, or Prodigy, you must establish connection through your ISP before downloading the AFRs. If you're connected to the Internet through a network or a cable modem, your Internet connection is already established.*

### *Turn Off Required §7520 Rate Rounding*

The calculations in this program require you to use AFR rates. When you enter AFRs, the program follows the IRS practice of rounding the rate up to the nearest two tenths of one percent (as per Code §7520). For example, 10.10% rounds to 10.2%. You can find appropriate rates in the AFR Table. You can, however, turn rounding off.

- To turn off the required rounding, on the **Edit** menu, click **Turn Off Required §7520 Rounding**. When you turn off rounding, the words **No Rounding** appear next to the **§7520 Rate** box.

**Note**

*You cannot turn off rounding for the GRAT, GRUT, GRIT/QPRT calculations.*

### *Print the AFR Table*

You may want to print the AFR table for your clients or to have as a reference around the office. This way you don't have to have the program running in order to answer a quick question.

1. Open the AFR Table.
2. Click the Print Graphic on the toolbar. The **Print** dialog box appears.
3. For help using the **Print** dialog box, click the  in the title bar.
4. Move the pointer to an item in the dialog box and click again. A Help message appears.

### *Save the AFR Data File to Another Location*

You may want to save the AFR data to another location, such as a network. This way, you can share the data with others in your office or use the data when working with other programs.

1. In the AFR Table, click . The Change File Location window appears.
2. Select the drive and folder in which to save the data file.

## Calculation Types

When calculating annuity/life estate/remainder factors or taxable gift values for GRATs, GRUTs, and GRITs/QPRTs, you must determine how long the grantor will receive annuities. In other words, how long the trust will last. Trusts can be set up for a “term of years or for “life.”

Type	Description
Term	If you select term, the grantor receives annuities for a specific number of years known as the term.
Greater	If you select greater, you are dealing with two lengths of time: the term of the trust and the life of the grantor. If you select greater, the grantor receives annuities for the longer of the two lengths of time.
Shorter	If you select shorter, you are dealing with two lengths of time: the term of the trust and the life of the grantor. If you select shorter, the grantor receives annuities for the shorter of the two lengths of time.
Life/One Life	If you select Life or One Life, the grantor receives annuities until he or she dies.
Joint Life	If you select Joint Life, the second-to-die receives annuities until he or she dies.
First-to-Die	If you select First-to-Die, annuities stop at the death of the first-to-die.

## Exhausting Annuities

The value of an exhausting annuity can be calculated by breaking it down into two separate parts. The first part is the portion of the annuity that does not exhaust. The second part is the final payment made in the period that the annuity exhausts.

§25.7520-3(b)(2)(v), example 5 describes a case where a donor, age 60, sets up a \$1,000,000 trust to pay a 10% annuity for the life of the donor. The §7520 rate used is 6.8%. This annuity is calculated to exhaust in 18 years, with a final payment in year 18 equal to \$32,712. To value this annuity, break it down into two separate parts: \$100,000 lasting for 17 years; and a single payment of \$32,712 in the 18th year. Once the pieces are known, value each one individually and then add them together. The annuity factor for an annuity lasting for the shorter of 17 years or until the prior death of a person age 60 is 8.6121. The annuity factor for the shorter of 18 years or until the prior death of a person age 60 is 8.7957. Given these factors (which can be obtained from example 11 in IRS Pub. 1457), the valuation of the annuity is:

$$\begin{aligned} \text{Value} &= [ \$100,000 \times 8.6121 ] + [ \$32,712 \times (8.7957 - 8.6121) ] \\ &= \$861,210 + \$6006 \\ &= \$867,216 \end{aligned}$$

Of course, these numbers get more complicated when the annuity is payable more frequently than annually, but the basic methodology is still the same. For example, take the above case, but make it payable quarterly instead of annually. Now the \$100,000 payments only last 16½ years. The final payment, made in the 3rd quarter of the 16th year, is \$5,414.41. Transforming this single payment into an annual amount by multiplying it by the number of payments per year (in this case 4), yields an annuity of \$21,657.64 lasting 16¾ years. Valuing partial-year annuities requires interpolation. An annuity lasting 16½ years is valued by taking ½ the value of the same annuity lasting for 16 years plus ½ the value of it lasting for 17 years. An annuity lasting for 16¾ years is valued by adding taking ¼ the value of the same annuity lasting for 16 years plus ¾ the value of it lasting for 17 years.

Getting back to the example:

Annuity Factor for 16½ years

$$(\frac{1}{2} \times 8.4055) + (\frac{1}{2} \times 8.6121) = 8.5088$$

Annuity Factor for 16¾ years

$$(\frac{1}{4} \times 8.4055) + (\frac{3}{4} \times 8.6121) = 8.56045$$

Of course, the frequency of payments still has to be taken into account. The payout frequency factor from Table K (IRS Pub. 1457) is 1.0252. Therefore, the annuity is valued:

$$\begin{aligned}\text{Value} &= 1.0252 \times [ \$100,000 \times 8.5088 ] + [ \$21,657.64 \times (8.56045 - 8.5088) ] \\ &= 1.0252 \times (\$850,880 + \$1,118.62) \\ &= \$871,468.99\end{aligned}$$

The above examples ignore the calculation of both when the annuity exhausts and the amount of the final payment. These two numbers, however, are critical to calculating a proper annuity valuation. The program provides two different methods for calculating these numbers: the Exact Method and the IRS Annuity Factor Method.

Annuities paid at the beginning of the period are treated in the same manner as annuities paid at the end of each period. First, the trust is reduced by the value of the first payment. The above analysis is then performed for the annuity, assuming payments occur at the end of each period. Finally, the first payment is added to the annuity value.

### Exact Method

The Exact Method is an intuitive method of calculating the duration and final payment amount of the annuity. This method assumes that the annuity grows at a rate equal to the 7520 rate and calculates the real payments and growth that would occur each year. The resulting schedule returns the exact amount payable in the final period.

The program defaults to using the IRS Annuity Factor Method. If you select the Exact Method, the program will include a schedule illustrating the exhaustion of the trust. When looking at this schedule, remember that the interest is compounded annually. Using the above example, the growth in the first year would equal  $6.8\% \times \$1,000,000 + 6.8\% \times \$900,000 + 6.8\% \times \$800,000 + 6\% \times \$700,000$ . This, of course, assumes that the payments are made at the end of each year.

### Annuity Factor Method

The IRS Annuity Factor Method is the method the IRS used in §25.7520-3(b)(2)(v), Example 5), Example 5. This method finds the highest term that yields a term-certain annuity value less than the initial value of the trust. This term is equal to the number of years that full payments last. Repeating this technique for the number of periods in the final year gives us the number of periods in the final year which have full payments. Once the term of the trust is known, the term certain annuity factors are used to calculate the value of the final annuity:

- 1) Calculate Term Certain Annuity Factors:

$$\text{Factor for } 16\frac{1}{2} \text{ years} = (\frac{1}{2} \times 9.5731) + (\frac{1}{2} \times 9.8999) = 9.7365$$

$$\text{Factor for } 16\frac{3}{4} \text{ years} = (\frac{1}{4} \times 9.5731) + (\frac{3}{4} \times 9.8999) = 9.8182$$

- 2) Adjust Annuity Factors for Frequency of Payments:

$$9.7365 \times 1.0252 = 9.9818598$$

$$9.8182 \times 1.0252 = 10.06561864$$

- 3) Calculate the annuity which corresponds to the final payment:

$$\text{Annuity} = (\$1,000,000 - (\$100,000 \times 9.9818598)) / (10.06561864 - 9.9818598) = \$21,657.65$$

*To transform this annuity into a single payment, divide by the number of payments per year: Final Payment =  $\$21,657.65 / 4 = \$5,414.41$*

## IRS Notice 89-60

In Notice 89-60, 1989-1 CB 700, the IRS provides guidance in applying tables containing actuarial factors to be used in determining the present value of an annuity, an interest for life or for a term of years, or a remainder or reversionary interest.

### Text of Notice 89-60

In accordance with section 7520 of the Internal Revenue Code, this notice provides tables containing actuarial factors to be used in determining the present value of an annuity, an interest for life or for a term of years, or a remainder or reversionary interest. The tables set forth in this notice apply for valuation purposes under several Code provisions including sections 170, 642, 664, 2031, 2055, 2512, 2522, and 2624.

### Transitional Rule

The following discussion is only relevant for Transfer Dates of May or June 1989. Under a transitional rule, you may optionally use the new Table Rate with the pre-5/89 life expectancies for May 1989 and June 1989 transfers. For example, 5/89 Transfer Dates may use the 5/89 Table Rate (with the new life expectancies) or the 3/89 or 4/89 Table Rates (not 10%) with the old life expectancies. Similarly, 6/89 Transfer Dates may use the 5/89 or 6/89 Table Rates (with the new life expectancies) or the 4/89 Table Rate (not 10%) with the old life expectancies.

### Background

Section 5031 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100-647, 102 Stat. 3342 (1988)) amended the Internal Revenue Code by adding section 7520. Generally, under section 7520, the value of an annuity, interest for life or for a term of years, or remainder or reversionary interest is determined under new tables that are to be prescribed by the Secretary. Section 7520 is applicable to gifts and certain other transfers made after April 30, 1989, and to estates of decedents dying after April 30, 1989. The new tables prescribed by section 7520 are to be based on an interest rate that is 120 percent of the applicable federal midterm rate for the

month in which the valuation date falls and the most recent mortality experience available. Section 7520(c)(3) provides that, no later than December 31, 1989, the Service must revise existing tables to take into account the most recent mortality experience available as of the time of such revision. The Service published Notice 89-24, 1989-10 I.R.B. 16, on March 6, 1989, to provide temporary guidance to taxpayers in planning transfers that would take place after April 30, 1989. Notice 89-24 provides formulas for computing the value of transferred interests based on the appropriate applicable federal midterm interest rate and the prior mortality experience.

#### Interest Rates and Tables for Transfers after April 30, 1989

The tables set forth below include many single life and term certain factors that are to be used for valuing interests in the case of gifts and certain other transfers taking place after April 30, 1989, and estates of decedents dying after that date. These new tables reflect the mortality experience based on the 1980 census. A complete set of tables, including two life and additional single life factors, will be published by the Service in the near future and will be available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20404.

The new tables contain factors that are based upon several different interest rates. The appropriate factor for any particular transaction will be based on the interest rate the Service announces monthly in a news release and publishes in a revenue ruling in the Internal Revenue Bulletin. The interest rate for a particular month is the rate that is published as 120 percent of the applicable federal midterm rate (compounded annually) in effect under section 1274(d)(1) of the Code for the month in which the valuation date falls. That rate is then rounded to the nearest two-tenths of one percent. For example, the rate that is published as 120 percent of the applicable federal midterm rate (compounded annually) for May 1989 is 11.68 percent. That rate is then rounded to the nearest two-tenths of one percent, or 11.6 percent, for purposes of section 7520 of the Code.

As stated in Notice 89-24, if an income, estate, or gift tax charitable contribution deduction is allowed for any part of the property transferred, the taxpayer may use the federal midterm rate for the month of the transfer or for either of the two months preceding the month in which the valuation date falls. For charitable contributions made in May or June 1989, if the taxpayer elects to use the federal midterm rate for either of the preceding two months, which may include March and April, the valuation factors for March and April for interests based on the lives of one or more individuals will be computed on the basis of Table 1 of United States Life Tables: 1969-71 and interest at 120 percent of the applicable federal midterm rate for March or April. Thus, the March and April actuarial factors (in the case of charitable contributions made in May or June 1989) will not be based on the new term certain factors and mortality experience.

## Reg. §25.7520-3(b)(2)(v), Example 5

This is the actual text from Section 25.7520-3(b)(2)(v).

Eroding corpus in an annuity trust. The donor, who is age 60 and in normal health, transfers property worth \$1,000,000 to a trust. The trust will pay a 10 percent (\$100,000 per year) annuity to a charitable organization for the life of the donor, and the remainder is to be distributed to the donor's child. The section 7520 rate for the month of the transfer is 6.8 percent. Because the 10 percent annuity payout rate exceeds the 6.8 percent income and growth rate that the trust is expected to experience each year, the annuity payout must be assumed to progressively erode the corpus. Using an interest rate of 6.8 percent, an annuity payout of \$100,000 per year will exhaust a \$1,000,000 trust corpus in 18 years. The final payment at the end of the 18th year will consist of a partial payment of \$32,712. Under section 7520, the standard life annuity factors are based on the assumption that any person may survive until age 110. This means that the standard life annuity factor for age 60 (9.8585) takes into account the separate probabilities that a person age 60 may survive to receive each of 50 different annuity payments. However, in the present case, because of the eroding corpus, the person age 60 can be assumed to receive no more than 17 \$100,000 annuity payments, regardless how long that person might survive. Therefore, the standard life annuity factor for a person age 60 (9.8585) is not applicable in this case, and special section 7520 annuity factors that take into account the 18-year limitation on the annuity payout must be used. The special annuity factor for the present value of the right to receive \$1.00 per year for 17 years or until the prior death of a person age 60 survives is \$.1836. The present value of the charitable annuity interest is \$867,269 ( $\$100,000 \times 8.6121$  plus  $\$32,712 \times .1836$ ).

## Treasury Decision 8819

The IRS has issued temporary and proposed regulations that revise the actuarial tables for valuing annuities, interests for life or terms of years, and remainder or reversionary interest to take into account the most recent mortality experience available.

### Text of Treasury Decision 8819

This document contains regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations are necessary because section 7520(c)(3) directs the Secretary to update the actuarial tables to reflect the most recent mortality experience available. These regulations will effect the valuation of inter vivos and testamentary transfers of interests dependent on one or more measuring lives. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject elsewhere in this issue of the Federal Register.

### Background

This document contains amendments to the regulations revising certain tables used for the valuation of partial interests in property under section 7520 of the Internal Revenue Code of 1986 (Code) to reflect the most recent mortality experience available.

### In General

Section 7520, effective for transfers for which the valuation date is after April 30, 1989, provides that the value of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is to be determined under tables published by the Internal Revenue Service based on a discount rate (rounded to the nearest two-tenths of one percent) equal to 120 percent of the applicable Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls. Section 7520(c)(3) directed the Secretary to issue tables not later than December 31, 1989, utilizing the then most recent mortality experience. Thereafter, the Secretary is directed to revise the tables used in valuing interests dependent on mortality experience not less frequently than once each 10 years to take into account the most recent mortality experience available as of the time of the revision.

These regulations incorporate revised Table S (Single Life Remainder Factors) and Table U(1) (Unitrust Single Life Remainder Factors) based on data compiled from the 1990 census as set forth in Life Table 90CM, and make conforming amendments to various sections to reflect the revised tables. The current tables are moved to sections containing actuarial material for historical reference. Table B, Table D, Tables F(4.2) through F(14.0), Table J, and Table K, which are not based on mortality experience, are not changed. Internal Revenue Service Publications 1457 "Actuarial Values, Book Aleph (forthcoming 1999), 1458 "Actuarial Values, Book Beth (forthcoming 1999), and 1459 "Actuarial Values, Book Gimel (forthcoming 1999) will contain a complete set of actuarial tables that include factors not contained in the regulations (for example, annuity and life interest factors). Although not available on May 1, 1999, IRS anticipates these publications will be available by July 1, 1999. These publications will be available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

[[Text omitted here.]]

#### Effective Dates

These regulations are applicable in the case of annuities, interests for life or terms of years, and remainder or reversionary interests created after April 30, 1999.

#### Transitional Rules

The regulations provide certain transitional rules intended to alleviate any adverse consequences resulting from the proposed regulatory change. For gift tax purposes, if the valuation date of a transfer is after April 30, 1999, but before July 1, 1999, the donor may determine the value of the gift (and/or any applicable charitable deduction) under tables based on either Life Table 80CNSMT or Table 90CM (at the donor's option). Similarly, for estate tax purposes, if the decedent dies after April 30, 1999, but before July 1, 1999, the value of any interest (and/or any applicable charitable deduction) may be determined under tables based on either Table 80CNSMT or Table 90CM, at the option of the decedent's executor. However, the section 7520 interest rate utilized is the appropriate rate for the month in which the valuation date occurs. In accordance with this transitional rule and those contained in sections 1.7520-2(a)(2), 20.7520-2(a)(2) and 25.7520-2(a)(2), in cases involving a charitable deduction, if the valuation date occurs after April 30, 1999, and before July 1, 1999, and the executor or donor elects under section 7520(a) to use the section 7520 interest rate for March 1999 or April 1999, then the mortality experience contained in 80CNSMT must be used. If the executor or donor uses the section 7520 interest rate for May 1999 or for June 1999, then the tables based on either Table 80CNSMT or Table 90CM may be used. However, if the valuation date occurs after June 30, 1999, the executor or donor must use the new mortality experience contained in Table 90CM even if a prior month interest rate election under section 7520(a) is made.

In addition, for estate tax purposes, the estate of a mentally incompetent decedent may elect to value the property interest included in the gross estate under the mortality table and interest rate in effect at the time the decedent became mentally incompetent or the mortality table and interest rate in effect on the decedent's date of death if the decedent was under a mental incapacity that existed on May 1, 1999, and continued uninterrupted until the decedent's death, or the decedent died within 90 days of regaining competency after April 30, 1999.

#### Special Analysis

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of these regulations is William L. Blodgett, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

# Chapter 11

## *Getting Help*

If you need help, it's easy to find. Click the question mark wherever it appears in the program and a Help topic will appear. Also, use the **Help** menu, and if you still need help, Brentmark provides technical support.

### Help Menu

Use the **Help** menu to find topics in the Help system, learn how to use Help, or view Brentmark product information.

### Help System

The program provides a complete Help system, so you can get help whenever you need it. Just click the question mark wherever it appears in the program. Use the Help system's table of contents to view Help topics by category or search the Help index for specific terms.

### Technical Support

Technical Support is available by telephone, fax, e-mail, or postal mail. If you have questions concerning program calculations, please have a list of your exact data entry values available when contacting us.

#### Telephone

Assistance by telephone is available Monday through Friday between 9:00 AM and 6:00PM Eastern Standard Time at (407) 306-6160.

#### Fax

For assistance by fax, send your fax to (407) 306-6107.

#### E-mail

For assistance via e-mail, send your remarks to [support@brentmark.com](mailto:support@brentmark.com).

## Postal Mail

For assistance by postal mail, write to:

Brentmark Software, Inc.  
3505 Lake Lynda Drive, Suite 212  
Orlando, FL 32817-8327

In your correspondence, please include the following information:

- The name to which the program is registered.
- A contact phone number.
- The program name and version number.
- Your system configuration.
- A sample printout or description of the problem.
- A list of any error messages that have appeared.

## Program Updates

From time to time, Brentmark will update the program due to tax law changes or new features. We post minor updates on our website at [www.brentmark.com](http://www.brentmark.com). We send major updates to all registered users who have up-to-date maintenance. Licensing the program automatically registers the program.

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The License Statement and Limited Warranty shall be construed, interpreted and governed by the laws of the State of Florida and any action hereunder shall be brought only in Florida. If any provision is found void, invalid or unenforceable it will not affect the validity of the balance of this License and Limited Warranty which shall remain valid and enforceable according to its terms. If any remedy hereunder is determined to have failed of its essential purpose, all limitations of liability and exclusion of damages set forth herein shall remain in full force and effect. This License and Limited Warranty may only be modified in writing signed by you and a specifically authorized representative of Brentmark. All rights not specifically granted in this statement are reserved by Brentmark.



# Index

§	
§2702	41
§7520 Rate	13, 17, 23, 29, 33, 35

## A

AFR	12, 41, 42
Age	14, 18, 24, 29, 33, 35
Aggregate Annual Payments	14
Annual Payment Growth	18, 24
Annuity Factor Method	46
Annuity Factors	13
Applicable Federal Rates	41
Apply §2702?	18, 24

## B

Brentmark Software, Inc	54
-------------------------	----

## C

Calculation Type	14, 17, 23
Calculation Types	44
First-To-Die	44
Greater	44
Joint Life	44
Life/One Life	44
Shorter	44
Term	44

## D

Data Input	9
Clearing	12
Date and Time	38

## E

Exact Method	46
Examples Section	33
Exhausting Annuities	45, 49
Exhaustion Method	18
Exiting the Program	12

## F

Factors Section	13
Files	11

Creating	11
Opening	11
Saving	11
First-to-Die	33, 44
Function Keys	9

## G

Grantor Retained Annuity Trust	18
Grantor Retained Unitrust	24
Grantors Age	18, 24
GRAT	19, 20, 21
GRAT Section	17
Greater	44
GRIT/QPRT Section	29
GRUT	25
GRUT Section	23

## H

Heading	37
Help	53
Hint Line	9

## I

Installation	7
IRS Notice 89-60	47
IRS Tables	36

## J

Joint Life	44
------------	----

## L

Last-To-Die	33
Life Estate	13, 15
Life/One Life	44
Lives	14

## M

Menu Bar	8
Months Valuation Precedes Payout	24

## N

Number of Lives	29
-----------------	----

<b>O</b>		Shorter..... 44
One Life and Term..... 33		Spreadsheet File ..... 40
One Survives Another..... 33		
<b>P</b>		<b>T</b>
Page Margins ..... 38		Table 80CNSMT..... 36
Payment Period..... 18, 24		Table 90CM ..... 36
Payment Timing..... 14, 18		Table C..... 36
Percentage Payout..... 17, 23		Table H..... 36
Principal..... 14, 17, 23, 29		Table K..... 36
Print Preview ..... 39		Table V..... 36
Printing ..... 37		Table VI ..... 36
Private Annuity ..... 14		Tables Section..... 35
Program Updates ..... 54		Technical Support ..... 53
		Term..... 14, 18, 24, 33, 44
<b>Q</b>		Term of Trust ..... 29
QPRT ..... 29		Text File ..... 40
Qualified Personal Residence Trust (QPRT) ..... 30		Text of a Report ..... 38
		Title Bar ..... 8
<b>R</b>		Toolbar ..... 8
Reg. §25.7520-3(b)(2)(v), Example 5 ..... 49		Transfer Date ..... 13, 17, 23, 29, 33, 35
Remainder Interest..... 15		Treasury Decision 8819 ..... 50
Remainders ..... 13		Two Lives and Term..... 33
Report Options..... 37, 38, 39		
Results..... 9		<b>U</b>
Reversion ..... 18, 24, 30		Updates ..... 54
<b>S</b>		<b>W</b>
Second Age..... 14, 29, 33, 35		Windows ..... 7
Sensitivity Report ..... 14		
		<b>Y</b>
		Yearly Return..... 34