AVOIDING DISASTER ON HIGHWAY 709 – PART 1

Gift Tax Return Basics – Including Why a Gift Tax Return Needs to be Filed Correctly and Who Needs to File a Return.

This is the first of a 5 part series reviewing the IRS Gift Tax Return Form 709 answering some of the questions you have secretly been wanting to ask. This series will cover the basics of who should file a gift tax return, the importance of filing the gift tax return correctly, the common mistakes made on gift tax returns, mistakes related to splitting gifts with spouses, the annual gift tax exclusion and the GST exclusion, and a completed sample Form 709.

Gift Tax Return Basics

During 2011, the applicable exclusion amount for lifetime gifts was increased from $1,000,000 to $5,000,000. This amount has increased with inflation and is currently $5,340,000 for 2014.

Because the applicable exclusion amount for lifetime gifts has been increased, many clients are making gifts which require a gift tax return to be filed. Preparers need to be certain that the gift tax returns are prepared correctly so that the client does not suffer any adverse consequences

American Tax Relief Act of 2012, and a Word About Portability

The passage of the American Tax Relief Act of 2012 ("ATRA"), which was signed on January 2, 2013, made the concept of portability permanent. Portability provides that a surviving spouse has the ability to add his or her **deceased spouse's unused exemption amount ("DSUE Amount")** to his or her basic exclusion amount. This DSUE Amount is determined at the date of death of the decedent, but unlike the applicable exclusion amount for lifetime gifts of the surviving spouse, the DSUE Amount of the first dying spouse is not indexed with inflation and will not grow larger.

For example, if a spouse dies in 2014 with $3,340,000 worth of assets in his or her name, then $2,000,000 of the first dying spouse's estate tax exemption would be unused ($5,340,000 - $3,340,000 = $2,000,000), assuming that the deceased spouse did not make any taxable gifts during his or her lifetime which would have reduced his or her exemption.

With the DSUE Amount, the surviving spouse now can gift $7,340,000 during his or her lifetime.

To be able to use the DSUE Amount, the deceased spouse's personal representative must make the appropriate election on the deceased spouse's timely filed estate tax return. The DSUE Amount can then be used by the surviving spouse during the surviving spouse's lifetime or on the surviving spouse's death.

It is important to note that the DSUE Amount applies to the estate tax and the gift tax, but does not apply to generation skipping transfer tax. Therefore, any unused generation skipping transfer tax exemption will be lost on the death of the first dying spouse.

It is also important to note that the DSUE A Amount applies to the last spouse to which an individual was married. Assume Husband 1 dies with a $4,000,000 DSUE Amount, and Wife remarries to Husband 2. If Husband 2 has a $1,000,000 DSUE Amount and dies before Wife, then Wife will only have the $1,000,000 DSUE Amount from Husband 2.

There are two main reasons for ensuring a Gift Tax Return is completed correctly when it is initially filed:

1) To avoid wasting the client's applicable credit amount by not taking advantage of the available exclusions; and

2) An accurately filed return will start the statute of limitations, which limits the ability and time the IRS has to challenge the value of the reported gift; and

IRS Challenge of Reported Value

If the value of a gift is adequately disclosed on a Gift Tax Return in a manner sufficient for the IRS to determine the nature of the gift, the IRS only has three years to challenge the value of the gift from the date that the return was filed. I.R.C § 2504(c); I.R.C. § 6501(a).

Treas. Reg. § 301.6501(c)-1(f)(2) provides that adequate disclosure occurs when a Gift Tax Return provides the following information:

1) A description of the transferred property and any consideration received by the transferor;

2) The identity of each transferee and the relationship between the transferor and the transferee;

3) If the gift is made to a Trust, the Gift Tax Return must include the Trust's tax identification number and a brief description of the terms of the Trust or a copy of the Trust Instrument;

4) The Gift Tax Return must include a statement describing any position taken on the return that is contrary to any proposed, temporary, or final Treasury Regulation or Revenue Ruling published at the time of the gift; and

5) Unless the value of the gift is supported by an appraisal meeting the standards of Treas. Reg. § 301.6501(c)-1(f)(3), the Gift Tax Return must include a detailed description of the method used to determine the fair market value of the property transferred and the underlying data must be submitted. Additional requirements are contained in Treas. Reg. § 301.6501(c)-1(f)(2)(iv).

Documenting the Value of a Gift

Appraisals should be submitted for items that do not have readily determined values, such as interests in closely held corporations, tangible personal property, or real estate. A Form 712 should be included for transfers of life insurance policies. For transfers of closely held corporations, the balance sheet, earnings statements, and dividends received for the five years prior to the gift should be attached. Instructions for the Gift Tax Return provide additional information that should be submitted for some specific items.

When Must a Gift Tax Return Be Filed?

Generally the Gift Tax Return is due by April 15th of the year after the gift was made. If the taxpayer files for an extension of time to file his or her personal Income Tax Return, the taxpayer will also receive a 6 month extension to file the Gift Tax Return. *See* Treas. Reg. § 25.6081-1(a).

The taxpayer may also request an extension specific only to the filing of the Gift Tax Return by filing a Form 8892, and will receive a 6 month extension to file the Gift Tax Return.

If a donor dies during the year that the gift was made, the Gift Tax Return is due when the Estate Tax Return for the decedent is due.

If gift tax is owed, the gift tax must still be paid no later than April 15th (or when the Gift Tax Return is due for a deceased donor if earlier), regardless of whether the time for filing the Gift Tax Return is extended.

Who Must File a Gift Tax Return?

A donor does not need to file a Gift Tax Return if one of the following six exceptions applies:

1) If the donor transfers amounts to donees that do not exceed the "annual exclusion;"

   - If the donor transfers an amount in excess of the annual exclusion to a donee and splits the gift with his or her spouse, a gift tax return will need to be filed even if the amount is less than twice the annual exclusion. In such cases, only the donor spouse needs to file a gift tax return.
   - For example, if (1) Husband's only gift is a $25,000 gift to Son, (2) Wife makes no gifts during the year, and (3) Husband splits the gift with Wife, a gift tax return will need to be filed by Husband even though the gift is less than $28,000 which is two times the $14,000 annual exclusion. In this example, Wife will not need to file a separate gift tax return, but will need to sign Husband's gift tax return indicating her consent to split the gift.

2) If the donor and the donor's spouse are U.S. citizens, and the donor transfers assets to his or her spouse that qualify for the gift tax marital deduction;

3) If the donor transfers assets to his or her spouse and

   (1) the spouse is not a U.S. citizen and

   (2) the amount does not exceed $143,000 for 2013 or $145,000 for 2014

4) If the transfers are payments that qualify for the educational exclusion or the medical exclusion stated in I.R.C § 2503(e);

- To qualify for the educational exclusion, the payment must be made directly to the qualifying educational organization and must be for tuition. Payments for books, supplies, room and board, and other expenses do not constitute direct tuition costs. Treas. Reg. § 25.2503-6(b)(2).
- To qualify for the medical exclusion, the payment must be made directly to the care provider. In the event that the amount is later reimbursed by insurance, the reimbursed portion will constitute a gift. Treas. Reg. § 25.2503-6(b)(3).

5) If the donor transfers assets to a political organization

If a donor makes transfers described in Sections 4 or 5 above, the donor does not need to file a Form 709 to report these transfers and **should not list them on Schedule A if the donor does file a Form 709**. Form 709 Instructions, page 2 (I.R.S. 2012); and

6) If the gift qualifies for the Charitable Deduction and either

(1) The transfer is a qualified conservation contribution, or

(2) The transfer is a transfer of the donor's entire interest in the property and the donor is and has never made a transfer of any interest in the property for less than full FMV to a person or for a use that is not described in I.R.C § 2522(a) or (b).

Many clients make donations to charities. If a client makes a gift which requires that a Form 709 be filed, then Part 1 of Schedule A of the Form 709 must list the donations that were made to the charities during the year. The client receives a deduction on Part 4 of Schedule A of the Form 709 for these donations.

7) In order to qualifying for the Gift Tax Marital Deduction:

(1) The spouses must have been married to each other at the time the gift was made;

(2) The donee spouse must have been a U.S. citizen; and

(3) The asset transferred by the donor must NOT have been a nondeductible terminable interest as defined by I.R.C § 2523(b). If a donor transferred assets to his or her spouse that would qualify as QTIP property, the donor MUST file a Form 709 to make such election. Treas. Reg. § 25.6019-1(a). **There is no relief available for late filing to make the QTIP election.**

Reporting Gifts to 529 Plans

Gifts to 529 Plans do not qualify for the I.R.C § 2503(e) tuition exclusion. Therefore, to avoid having these contributions treated as taxable gifts, the contributions need to utilize the donor's annual exclusion. Per I.R.C § 529(c)(2)(B), if the aggregate amount of the contribution made by a donor to a 529 Plan for a donee exceeds the annual exclusion, then the donor may elect to have the contribution spread out over 5 years, beginning with the calendar year that the amounts are contributed.

If the donor makes the election to spread the contribution ratably over five years, then for each of the five years the donor reports 1/5th of the value on the annual Gift Tax Return. It is not permissible to take the maximum annual exclusion amount out of the split gift each year, instead the gift to the 529 plan needs to split equally among the five year period. However, if the donor does not make any other gifts that would require the donor to file a Gift Tax Return in any of the four years after the original contribution to the 529 Plan is made, then the donor is not required to file a Gift Tax Return to report the year's portion of the 529 plan contribution.

AVOIDING DISASTER ON HIGHWAY 709 – PART 2

The Ten Biggest Mistakes Made on Gift Tax Returns and How to Avoid Them

The Top 10 Mistakes we see with respect to filing gift tax returns are as follows:

1) **The gift tax return does not contain sufficient information to provide "adequate disclosure" to the IRS.** This prevents the statute of limitations on the ability of the IRS to audit the gift from starting to run. As a result, the IRS will have an unlimited time to audit the gift.

2) **The return is filed and does not utilize the client's annual exclusion to reduce the value of the reportable gifts that are made.** When the preparer does not reduce the value of the reported gifts by the donor's applicable annual exclusions, then a portion of the donor's gift and estate tax exemption is wasted, which could cause the family to owe unnecessary gift or estate tax.

3) **The gift tax return does not exclude from the reportable gifts the gifts which qualify for the educational or medical exclusion.** This oversight will also unnecessarily use the donor's lifetime gift and estate tax exemption, which could cause the family to owe additional gift or estate tax.

4) **The return misreports gifts to 529 plans that exceed the annual exclusion.** Gifts to 529 plans can be spread out over a period of 5 years, but this election must be affirmatively made on a gift tax return. If a gift to a 529 plan in excess of the annual exclusion is not split, then the gift will use some of the donor's gift tax exemption, which could cause the family to owe unnecessary gift or estate tax.

5) **The return is prepared assuming that annual exclusion gifts also qualify for the GST tax annual exclusion.** Most gifts that qualify for the gift tax annual exclusion that are made to trusts do not qualify for the GST tax annual exclusion, and utilize some of the client's GST tax exemption. If these are misreported, then the client may have less GST tax exemption remaining than what is stated on the return, which could significantly impact future planning.

6) **When a gift is made to a trust, the gift tax return is filed without attaching either a copy of the trust or a brief description of the trust's terms to the return.** Pursuant to Treasury Regulations, if a reportable gift is made to a trust and the gift tax return is filed without attaching either a copy of the trust or a brief description of the trust's terms, then adequate disclosure has not been provided to the IRS. Per Mistake #1 above, the statute of limitations on the ability of the IRS to audit the gift does not start to run.

7) **Gifts made to trusts which are not direct skips for GST tax purposes are reported on Schedule A Part 2 and not on Schedule A Part 3.** Returns prepared this way are incorrect and might be considered to not provide adequate disclosure.

8) **A joint tax return is filed.** Spouses may not file a joint gift tax return. If a joint gift tax return is filed, more than likely the statute of limitations will not begin to run for any of the gifts that are reported on the return.

9) **Mistakes related to gift splitting.** Married spouses may split the gifts they make so that the gifts are treated as having been made one-half by each spouse. There are numerous traps related to gift splitting which may prevent the gift from actually being split.

10) **The possibility of opting out of the automatic allocation of GST Exemption is not considered.** If the value of property that was an indirect skip has decreased when the gift tax return is filed, the return preparer should consider opting out of the automatic allocation of GST Exemption. In this case, a second return could be filed allocating GST exemption equal to the reduced value of the property, thereby saving the client's GST exemption. It is important to note that **this should only be considered for indirect skips and not direct skips**, otherwise GST tax would be payable.

AVOIDING DISASTER ON HIGHWAY 709 – PART 3

9 Common Mistakes Related to Spousal Gift Splitting

When a husband and wife consent to "split gifts" for a given calendar year, all of the eligible gifts that they both made are considered as having been transferred one-half by each spouse. This applies even if the assets transferred were owned by one spouse individually, and not jointly or as tenants by the entireties. If spouses elect to split gifts on a gift tax return, such election will also apply for GST purposes. The following three conditions must be met for spousal gift-splitting:

1) Both spouses must be US Citizens or residents on the date of the gift;

2) Both spouses must consent to having all of the eligible gifts made by each of them treated as having been made one-half each; and

3) The spouses must have been married when all of the gifts were made during the year, and cannot divorce and remarry during the remainder of the calendar year. I.R.C. § 2513(a).

Below are 9 of the most common mistakes we see with respect to spousal gift-splitting, and how to avoid them.

<u>Mistake 1) Not Making the Election Correctly</u>

- If the spouses agree to split the gifts, they need to confirm that they have appropriately completed Boxes 12, 13, 14, and 18 of the Form 709.
- If both spouses need to file gift tax returns, both spouses will need to sign each of the returns where indicated.
- If both spouses need to file gift tax returns, the spouses should file both of the individual gift tax returns together in one envelope to help the IRS process the returns and to avoid correspondence from the IRS. Form 709 Instructions, page 5 (I.R.S. 2012).

<u>Mistake 2) Forgetting to Make the Election</u>

- Generally, consent to split gifts cannot be made after the **later** of:
    a. April 15th of the year following when the gifts were made (or October 15th if an extension is applied for); or
    b. The date the donor spouse files the gift tax return.

This prevents a couple from filing a gift tax return reporting all of the gifts as having been made by one spouse, and then waiting to see if the return is audited before electing gift splitting.

<u>Mistake 3) Having the Donor's Spouse Split the Gift to a Trust That the Donor's Spouse is a Beneficiary of or to a Trust That the Donor's Spouse is Likely to Receive Benefits From</u>

- If a split gift is gifted to a trust that has the ability to benefit one or both spouses, then the split gift may not be effective, unless the couple can demonstrate that it is highly unlikely that the beneficiary spouse will receive any benefits from the trust. See Private Letter Ruling 200345038 and the case of *William H. Robertson vs. Commissioner, 26 TC 246 (1956).*

Mistake 4) Thinking it is Too Late to Make the Election – One Possible Exception to the April 15th Deadline

- An election to split gifts may be made by spouses after April 15th of the year following when the gifts are made if

  1) No gift tax return has been filed by either spouse before April 15th; and

  2) When the gift tax return for the year in question is filed, the spouses elect to split the gifts.

It is important to note, however, that a late gift tax return cannot be filed splitting gifts if a notice of deficiency has already been sent by the IRS.

Mistake 5) Dead or Incompetent Spouses can Make the Election

- The executor for a deceased spouse may consent to split a gift made prior to the death of the deceased spouse. Treas. Reg. § 25.2513-2(c).
- However, a donor may not split the gift with his or her deceased spouse if the gift is made after the spouse's death. Rev. Rul. 55-506, 1955-2 C.B. 609.
- The guardian for a legally incompetent spouse may consent to split a gift.

Mistake 6) Spouses may not remarry during the year.

- It is important to note that spouses can elect to split gifts that were made when they were married, **but only if they do not divorce and then remarry during the remainder of the year.**
- If the spouses divorce and one spouse remarries before the end of the year, then the gifts made while the spouses were married cannot be split.
- In the event that clients divorce and one client has made a large gift which was intended to be split, consider adding in a provision in a marriage settlement agreement to ensure gift-splitting remains viable.

Mistake 7) The Split is on All Gifts by Both Spouses – No "Picking and Choosing"

- If spouses elect to split gifts, the election is effective with respect to **all** eligible gifts made by either spouse to any third party.
- It is not possible for the clients to pick to split only some of the gifts.
- The only exception to this rule is gifts to a spouse. These gifts may not be split.

<u>Mistake 8) Thinking the Election is Irrevocable</u>

- Many practitioners believe that the election to split gifts is irrevocable. While this is generally true, the following exception applies.
- Either spouse may rescind the election to split gifts if:

  1) the consent was originally made on a return filed before April 15th of the year after the gifts were made; **and**
  2) the consent is rescinded before April 15th of the year after the gifts were made.

<u>Mistake 9) Sometimes the Consenting Spouse does not need to file a Gift Tax Return</u>

- If only one spouse made gifts, and

  1) All of the gifts are present interests, and
  2) The total amount received by each donee from the donor spouse does not exceed twice the annual exclusion ($28,000 for 2014),

Then the consenting spouse does not need to file a gift tax return. Only the spouse making the gifts needs to file a gift tax return, and the consent of the spouse splitting the gifts must be granted on the gift tax return.

AVOIDING DISASTER ON HIGHWAY 709 – PART 4

The Confusion Regarding The Gift Tax and GST Annual Exclusions

If a gift qualifies for the Gift Tax Annual Exclusion, then some or all of the gift will not utilize the donor's applicable exclusion amount for lifetime gifts, depending on the size of the gift. For 2014, the gift tax annual exclusion is $14,000 per donor per done. This amount is indexed for inflation. I.R.C § 2503(b)(1). If a donor makes a gift to a donee in excess of the gift tax annual exclusion, assuming the gift qualifies for the gift tax annual exclusion, then the reportable value of the gift will be reduced by $14,000.

Only gifts of "present interests" qualify for the gift tax annual exclusion. A gift is a present interest if the donee has an immediate right to use, possess, or enjoy the property. Treas. Reg. § 25.2503-3.

When gifts are made to a trust, the terms of the trust will often provide beneficiaries with a Crummey right of withdrawal, which gives the beneficiary an absolute right to withdraw the gift or a certain portion of the gift during a stated time. Frequently this right of withdrawal is for 60 days. This right of withdrawal helps to qualify the gift as a present interest.

Gifts of future interests do not qualify for the gift tax annual exclusion. Examples of future interests include remainders, reversions, and any other interest that commences in use, possession, or enjoyment at some future time. Treas. Reg. § 25.2503-2. A gift of a future interest must be reported at its full value, and uses an amount of the donor's lifetime gift tax exemption equal to the fair market value of the gift.

The GST Annual Exclusion

The GST annual exclusion and the gift tax annual exclusion are not identical. The GST annual exclusion is much more limited, and a transfer that qualifies for the annual gift tax exclusion may not qualify for the annual GST exclusion.

An outright transfer to a skip person (such as a grandchild) qualifies for the GST annual exclusion.

For a transfer in trust to qualify for the GST annual exclusion, the trust must be a "qualified trust" as described in I.R.C § 2642(c)(2). To satisfy this requirement, the trust must be held for the benefit of an individual and

(1) during the life of such individual, no portion of the corpus or income of the trust may be distributed to any other person, and

(2) if the trust does not terminate when the individual dies, the assets of the trust must be included in the gross estate of such individual. I.R.C § 2642(c)(2).

Crummey Gifts Often Use Up GST Exemption

Most often a trust with a Crummey right of withdrawal which meets the requirements for the gift tax annual exclusion will NOT meet the requirements for the GST annual exclusion. Therefore, the donor will need to allocate GST exemption to the trust if the transferor wants the trust to have an inclusion ratio of zero.

Direct Skips (GST Transfers)

A direct skip is a transfer made to a skip person, which is subject to gift or estate tax. A skip person is a person who is two or more generations below the generation of the transferor, unless the predeceased ancestor exception applies. A skip person also includes a "non-relative" who is more than 37.5 years younger than the donor. A non-relative is an individual who is not a lineal descendant of a grandparent of the donor or the donor's spouse (which includes individuals who have been legally adopted) or individuals who are married to such a descendant. If a gift is made to a skip person, this amount should be reported Schedule A, Part 2.

A non-skip person is any person who is not a skip person.

A trust may also be considered a Skip Person if (1) all of the interests of the trust are held by skip persons, or (2) the likelihood that a non-skip person would receive a distribution from the trust is less than 5%. I.R.C § 2613(a)(2).

Indirect Skips and GST Trusts

An indirect skip is a gift subject to gift tax that is not a direct skip, and is made to a GST Trust. I.R.C § 2632(c)(3)(A). Most trusts are GST Trusts. If the children of the donor are beneficiaries of the trust, then the Trust will almost always be a GST Trust. Therefore, transfers to these trusts are indirect skips.

Where are Direct and Indirect Skips Reported?

We often see mistakes made with respect to which Schedule on the Gift Tax Return is appropriate for reporting these gifts. Direct skips are to be reported on Schedule 2, and indirect skips on Schedule 3. Therefore gifts to GST trusts, which include most (if not all) trusts where the children of the donor are beneficiaries, should be reported on Schedule 3 and not on Schedule 2.

AVOIDING DISASTER ON HIGHWAY 709 – PART 5

Gift Tax Return Filing Checklist with a Hypothetical Fact Pattern and Sample Form 709 completed pages

The following checklist could help a practitioner obtain the necessary information to complete a gift tax return and provide adequate disclosure to the IRS.

- Donor Information
  - Donor's name, address and social security number.
  - Does the donor have a deceased spousal unused exemption amount?
  - Copies of past gift tax returns that were filed.
  - Confirmation regarding any consideration received by the donor for a gift.
  - Is the donor opting out of automatic allocation of generation skipping tax?
  - Citizenship of donor
- Spouse's Information
  - Conformation that the donor's spouse is a United States citizen or resident.
  - Will the gifts be split? If so, the consenting spouse's name and social security number.
  - If gift splitting is desired, confirmation that the clients were married when the gifts were made.
  - If gift splitting is desired and the donor and the donor's spouse have divorced, confirmation whether either the donor or the donor's spouse have remarried during the taxable year.
- Reportable Gifts
  - List of all gifts made, including gifts to spouses and charitable donations.
  - Were gifts made to 529 Plans?
    - If so, were these intended to be split ratably over a five year period?
  - Inquire about life insurance premiums paid for life insurance policies owned by Irrevocable Trusts.
  - Did the donor establish a lifetime QTIP Trust?
- Information Required for Particular Gifts
  - The donee's name and address and relationship to the donor.

- Description of the gift.
- Donor's adjusted basis of the gift.
- The date of the gift.
- The value as of the date of the gift.
- Appraisals or explanations of valuation discounts.
- Obtain Form 712 for transfers of life insurance polices.
- For stock sold on an established exchange, determine the number of shares gifted, whether the shares are common or preferred, obtain the CUSIP number, and determine the mean between the highest and lowest quoted selling prices on the valuation date.
- For transfers of closely held corporations, obtain the balance sheet, earning statements, and dividends received for the five years prior to the gift.
- If bonds are transferred, obtain the number of bonds transferred, the principal amount of each bond, the name of the obligor, the date of maturity, the rate of interest, the date or dates when interest is payable, the series number, exchanges where listed, or if unlisted, the principal business office of the issuer, the CUSIP number, and determine the mean between the highest and lowest quoted selling prices on the valuation date.

- Information Required for Trusts
  - Copies of all of the Trusts which received gifts during the year (or a brief description of the terms of each trust).
  - Taxpayer identification number for the Trust.
  - Name and address of Trustee of Trust.
  - Check Trust documents for Crummey right of withdrawals.
  - If the Trust does not provide for Crummey rights of withdrawal but the Trust allows the grantor to designate withdrawal powers a copy of the designation should be attached.

Hypothetical Fact Pattern

John and Mary Doe are married to each other and have been married to each other for all of 2013. John was widowed in 2011, prior to marrying Mary.

John and Mary have two children: Henry Doe and Ruth Anderson.

John and Mary have five grandchildren: Jean Anderson, Lily Anderson, Kate Anderson, Stella Doe, and Buddy Doe.

Mary is the grantor of the Ruth Anderson Irrevocable Trust. Each of Ruth, Jean, Kate, and Lily have Crummey rights of withdrawal.

During the 2013 tax year, John and Mary made the following gifts:

- 1-1-2013, John gifted $28,000 to Henry;
- 3-31-2013, John made a $40,000 donation to Community Foundation;
- 8-1-2013, Mary made an $18,000 tuition payment to College University for Stella;
- 9-1-2013, Mary gave Stella $18,000
- 9-1-2013, Mary funded a 529 Plan for Buddy with $140,000; and
- 12-1-2013, Mary contributed $210,000 to the Ruth Anderson Irrevocable Trust.
- 12-30-2013, John contributes $6,000,000 to the Doe Descendants Trust

Attached please find a completed Form 709 using the above stated hypothetical fact pattern.