



# Instructions for Form ET-706

## New York State Estate Tax Return

For an estate of an individual who died during the calendar year 2011.

### New York State Marriage Equality Act

On June 24, 2011, Governor Cuomo signed into law the Marriage Equality Act. As a result of the Act, for New York State estate tax purposes, the term *spouse* includes both same-sex spouses and different-sex spouses. Accordingly, for estates of individuals dying on or after the Act's effective date, July 24, 2011, the same deductions and elections allowed for different-sex spouses are allowed for same-sex spouses, whether or not a federal estate tax return is filed. For special filing instructions, see *Filing procedures for the estate of an individual who died while married to a same-sex spouse* on page 2.

### Preparer information

If you prepared Form ET-706 for the estate and you are not the executor, fill in the information requested in the preparer section on page 1 of the return and sign where indicated. Include your federal preparer tax identification number (PTIN) or your social security number (SSN), and your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. Paid preparers can be subject to a penalty for failure to conform to certain requirements. See TSB-M-09(10)M, *Tax Preparer Registration Program*, and TSB-M-10(8)M, *Enrolled Agents Excluded from the Definition of Tax Return Preparer for the Tax Preparer Registration Program*, for more information.

### General information

#### Conformity with the federal Internal Revenue Code (IRC)

New York State (NYS) Estate Tax Law Article 26 conforms to the Internal Revenue Code (IRC) of 1986, with all amendments enacted on or before July 22, 1998 (NYS Tax Law section 951). Therefore, the NYS Estate Tax Law does not conform to the changes provided by the federal Economic Growth and Tax Relief Reconciliation Act of 2001. For a date of death after 2001, the NYS estate tax liability will generally exceed the allowable federal credit for state death taxes. For dates of death after 2004, the IRC replaced the credit with a deduction for state death taxes paid. This change in the IRC is not incorporated in NYS Tax Law, and, therefore, does not affect the calculation of the NYS estate tax.

#### Which estates must file Form ET-706 for New York State

**Note:** If the estate is required to file Form ET-706, *New York State Estate Tax Return*, the estate must also complete and submit a federal estate tax return with the NYS return, even if the estate is not required to file with the Internal Revenue Service (IRS). Use the version of federal Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*, or Form 706-NA, *United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States*, applicable to the date of death.

#### New York State residents

The estate of an individual who was a NYS resident at the time of death, must file a NYS estate tax return if the total of the federal gross estate, plus the federal adjusted taxable gifts and specific exemption (see federal *Instructions for Form 706*), exceeds \$1,000,000.

#### New York State nonresidents who were either residents or citizens of the United States (U.S.)

The estate of an individual who was either a resident or citizen of the United States at the time of death, and was not a resident of

NYS at the time of death, must file a NYS estate tax return if the estate includes real or tangible personal property having an actual situs in NYS and the gross estate, plus federal adjusted taxable gifts and specific exemption, exceeds \$1,000,000. The estate must also submit a completed Form ET-141, *New York State Estate Tax Domicile Affidavit*.

#### New York State nonresidents who were nonresidents of the United States and not U.S. citizens

The estate of an individual who was a **nonresident of the United States and not a U.S. citizen** at the time of death, must file a NYS estate tax return if the estate is required to file a federal estate tax return, Form 706-NA, and the estate includes real or tangible personal property having an actual situs in NYS (see the information below on federal filing requirements).

#### General requirements for filing a federal estate tax return

##### U.S. citizens and residents

The executor must file federal Form 706 for the estate of every U.S. citizen or resident whose gross estate, plus adjusted taxable gifts and specific exemption, is more than the applicable exclusion amount of the unified credit for the year of death. For the year 2011, the applicable exclusion amount is \$5,000,000.

##### Nonresidents of the United States who were not U.S. citizens

The executor must file federal Form 706-NA if the date of death value of the decedent's gross estate located in the United States (under federal IRC situs rules) exceeds the filing limit of \$60,000, reduced by the sum of the gift tax specific exemption applicable to certain gifts made in 1976, and the total taxable gifts made after 1976 that are not included in the gross estate.

#### When to file Form ET-706 for New York State

You must file Form ET-706 within nine months after the decedent's date of death, unless you receive an extension of time to file the return.

An extension of time to file the estate tax return may not exceed six months, unless the executor is out of the country.

The Tax Department may grant an extension of time to pay the estate tax for up to four years from the date of death, if it is established that payment of any part of the tax within nine months from the date of death would result in undue hardship to the estate. Annual installments may be required (NYS Tax Law section 976(a)).

If you need an extension of time to file the estate tax return, pay the estate tax, or both, file Form ET-133, *Application for Extension of Time to File and/or Pay Estate Tax*.

Also see *Election of installment payments of tax for closely held business* on page 3 for information on an extension of time to pay the tax when a large part of the estate consists of an interest in a closely held business.

#### Where to file

Mail Form ET-706 to:

**NYS ESTATE TAX  
PROCESSING CENTER  
PO BOX 15167  
ALBANY NY 12212-5167**

If you use a private delivery service, see *Private delivery services* below.

### Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* on page 6 of these instructions for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery.

## Interest and penalties

### Interest

**Underpayment of tax** — To avoid the assessment of interest, you must pay the total tax as finally determined within nine months of the date of death, even if you received an extension of time to file the return. Interest is compounded daily, and the rate is adjusted quarterly.

**Overpayment of tax** — If the estate is due a refund, you may also be entitled to receive interest on your overpayment. Interest is compounded daily, and the rate is adjusted quarterly. If the refund is made within 45 days after the due date of the return, the extended due date, or the date the return is filed, whichever is later, no interest will be paid. If the refund is not made within this 45-day period, interest will be paid from the due date of the return or the date the return is filed, whichever is later.

### Penalties

**Late filing penalty** — If you file late, you will be charged a penalty of 5% on the amount of tax required to be shown on the return (reduced by any tax paid by the prescribed due date of the return and by any allowable credits) for each month or part of a month the return is late, up to a maximum of 25%, unless you extend the time to file and file within the extended period, or attach to your return an explanation showing reasonable cause for the delay. If your return is more than 60 days late, this penalty will not be less than the lesser of \$100 or 100% of the tax required to be shown (reduced by any tax paid timely and by any allowable credit) (NYS Tax Law sections 990 and 685(a)(1)). For information on requesting an extension of time to file your return, see *When to file Form ET-706 for New York State* on the front page of these instructions.

**Late payment penalty** — If you do not pay the tax when due, you will be charged a penalty of ½% of the unpaid portion of the total tax shown on the return for each month or part of a month the tax remains unpaid. It will be computed from the due date to the date of payment, up to a maximum of 25% (NYS Tax Law sections 990 and 685(a)(2)). This penalty is in addition to the interest charged for late payments.

This penalty may be waived if you attach an explanation to your return showing reasonable cause for paying late.

**Note:** When late filing and late payment penalties are imposed at the same time, the amount of the late filing penalty computed for each month is reduced by the amount of the late payment penalty computed for the same monthly periods.

**If you compute your tax incorrectly** — You may have to pay a penalty if the tax you report on your return is less than your correct tax. If you reported an amount that is off by more than 10% of the tax required to be shown on the return, or by \$2,000, whichever is more, you may have to pay this penalty. The penalty is 10% of the difference between the tax you reported and the tax you actually owe (NYS Tax Law sections 990 and 685(p)).

**Negligence penalty** — If you do not show all of the tax imposed on your return (under the NYS Tax Law, its rules or regulations) due to negligence or intentional disregard (but not with intent to defraud), you will be charged a penalty of 5% of any deficient amount.

In addition, 50% of the interest due on any underpayment resulting from negligence will be added to your tax (NYS Tax Law sections 990 and 685(b)).

**Fraudulent returns** — If any part of a deficiency is due to fraud, you will be charged a penalty of 50% of the deficiency. In general, a deficiency is the difference between the correct tax and the tax shown on your return. If you file your return late, the deficiency is the entire tax. In addition, 50% of the interest due on any deficiency resulting from a fraudulent act will be added to your tax (NYS Tax Law sections 990 and 685(e)).

**Frivolous returns** — The Tax Department will impose a penalty of up to \$500 on any person who files a frivolous tax return. A return is considered frivolous when it does not contain information needed to judge the correctness of the tax return or reports information that is obviously and substantially incorrect, intended to delay or impede the administration of Article 26 of the Tax Law or the processing of the return (NYS Tax Law sections 990 and 685(q)).

## Supplemental documents

A completed copy of either federal Form 706 or 706-NA, with all schedules and supporting documents, must be submitted with your NYS estate tax return. When applicable, you must submit the following documents with the estate tax return (if they were not previously submitted):

- a copy of the death certificate
- a copy of the decedent's last will (if one exists)
- letters of appointment (if obtained from the surrogate's court)
- a power of attorney (see *Attorney/representative information* on page 3)

For the estate of an individual who was not a resident of NYS at the time of his or her death, complete Form ET-141, and attach it to the return.

## Filing procedures for the estate of an individual who died while married to a same-sex spouse

If the estate of an individual who died on or after July 24, 2011, is required to file a federal estate tax return, and the decedent was married to a same-sex spouse, the estate must complete a separate pro forma federal estate tax return, computing the gross estate and any applicable elections as if the marriage were federally recognized. The estate must attach both the pro forma federal return and the actual federal return that was filed to Form ET-706.

## Amended returns

To amend your NYS estate tax return, mark an **X** in the box on the top of the front page of Form ET-706, complete the return, and mail it to the NYS Estate Tax Processing Center address. Include your remittance for additional tax, if applicable. If you also amended the federal estate tax return, attach a copy of the amended federal estate tax return, Form 706 or Form 706-NA.

## Federal audit changes

To report changes as a result of an audit by the IRS, complete Form ET-115.1, *New York State Estate Tax Report of Federal Audit Changes*, attach a copy of the federal audit changes and line adjustments, and mail to: NYS Tax Department, TDAB — Estate Tax, W A Harriman Campus, Albany NY 12227.

## Completing the return

**Note:** If the decedent was:

- a victim of the September 11, 2001, terrorist attack(s) who died as a result of wounds or injuries incurred as a result of the attacks; or
- a United States astronaut who died in the line of duty;

the estate is exempt from New York State estate tax. However, the estate is required to file a New York State estate tax return if a federal estate tax return is required.

The preparer should write either **KITA-9/11** or **U.S. astronaut**, as applicable, at the top of the front page of Form ET-706. The estate is **not required to complete Schedules A or B**. However, the preparer should enter **0** on lines 1 and 8 of Form ET-706.

## Federal return required

**A copy of the federal return must be submitted** — The starting point for the NYS estate tax return is the federal estate tax return. A completed federal estate tax return must be submitted with the NYS estate tax return, even if the estate is below the federal filing threshold.

## Decedent information

Enter the name of the decedent (last name first), home address at the time of death, social security number, date of death (month, date, and year), and county of residence.

If you have not previously submitted a copy of the death certificate, mark an **X** in the box and attach a copy to the return being filed.

Indicate if the decedent was a nonresident of NYS at the time of death. If the decedent was not a resident of NYS at the time of death, complete and attach Form ET-141 if one was not submitted previously.

In the area provided, enter the federal employer identification number (EIN), if any, for the estate. The EIN, also known as a federal tax identification number, can be obtained by contacting the IRS. Also enter the name(s) and EIN for any trusts created. If additional room is needed, attach a sheet listing the names and identification numbers of the trusts.

## Attorney/representative information

If you, as the executor of the estate, have authorized a person to represent you regarding the estate, and you would like the department to contact him or her regarding the estate, enter the name (last name first) of the attorney, accountant, or enrolled agent who is representing you. Also enter the firm's name, address, and telephone number in the areas provided, and have the representative sign the return in the area provided on the front page of the return.

**Note:** If you are giving a person power of attorney to represent you, attach a completed Form ET-14, *Estate Tax Power of Attorney*, if one was not submitted previously. Refer to the instructions on Form ET-14 for additional information.

## Executor information

Enter the name (last name first) and other information for the executor of the estate. The term *executor* includes executrix, administrator, administratrix, or personal representative of the decedent's estate; if no executor, executrix, administrator, administratrix, or personal representative is appointed, qualified, and acting within the United States, *executor* means any person in actual or constructive possession of any property of the decedent.

If an executor has not been appointed, this form may be signed and filed by a person having knowledge of all the assets in the decedent's estate. This person must also enter his or her name, address, and social security number in the area provided for the executor on the front page of the return.

If the estate has **more than one executor**, mark an **X** in the box, enter the name and other information for the primary executor (preferably a person residing in NYS) in the area provided, and attach a list of each of the other executors with their mailing address and social security number. Submit *Letters Testamentary* or *Letters of Administration* with the return if not previously submitted. It is sufficient to have one of the coexecutors sign the return.

## Litigation information

If the decedent was a plaintiff in any litigation at the time of his or her death, or the estate has undertaken or is considering any litigation on behalf of the decedent, mark an **X** in the box and, in the area provided in *Schedule 3*, describe the litigation. Include the fair market value of the decedent's interest in the cause of action as of the date of death.

The department will waive the penalty and interest that applies to the estate tax attributable to the value of a cause of action (litigation) that is includable in the taxable estate of the decedent. Penalty and interest on this amount will be waived from the date an estate tax return is filed that discloses the cause of action, to the date of payment, but not more than one year after the date of settlement or final judgement.

Damages for wrongful death are not includable in the gross estate, but damages for pain and suffering are.

## Election of installment payments of tax for closely held business

In the area provided on the front page of the return, indicate if the estate is electing to pay the estate tax in installments as provided under NYS Tax Law section 997. When a large part of an estate consists of an interest in a closely held business, the estate representative may elect, under NYS Tax Law section 997, to apply for deferred payment of estate tax. This extension is based upon IRC section 6166, as incorporated in NYS Tax Law.

An estate will not be allowed to defer payment of the NYS estate tax under NYS Tax Law section 997 if the estate is required to file a federal estate tax return and either does not elect or is not allowed to pay the federal estate tax in installments under IRC section 6166.

The time limit for making this election for NYS estate tax is nine months from the date of death (15 months if an extension of time to file is granted). Form ET-415, *Application for Deferred Payment of Estate Tax*, must be completed and attached to Form ET-706. **Note:** If you are electing to pay the NYS estate tax in installments, you must file Form ET-415 within the time allowed or it will be denied, even when the federal election is made on time.

If you need an extension of time to file the return or to pay the non-deferred tax, refer to Form ET-133, *Application for Extension of Time to File and/or Pay Estate Tax*.

## Releases of lien

In the area provided on the front page of the return, enter the number of counties for which you are requesting releases of lien, and submit a completed Form ET-117, *Release of Lien of Estate Tax*, for each county in which real property is located. After Form ET-117 has been validated and returned to you, file the validated Form ET-117 with the county clerk or commissioner of deeds for the county in which the real property is located.

If a release of lien is needed for one or more cooperative apartments, complete a separate Form ET-117 for each cooperative corporation and purchaser. After Form ET-117 has been validated and returned to you, give the validated Form ET-117 to the purchaser of the cooperative apartment(s) as proof that the lien has been released.

**Do not** submit real property and cooperative apartments on the same Form ET-117, even when they are located in the same county.

A release of lien is not required if the property was held jointly by the decedent and the surviving spouse as the only joint tenants with the right of survivorship (tenants by the entirety).

**Note:** To obtain a release of lien when the estate is not required to file a NYS estate tax return, complete Form ET-30, *Application for Release(s) of Estate Tax Lien*, if an executor has been appointed and it is less than nine months from the date of death. Attach the completed Form(s) ET-117 to Form ET-30. Otherwise, complete Form ET-85, *New York State Estate Tax Certification*, and attach the completed Form(s) ET-117.

## Schedule A or B

Unless exempt, all estates are required to complete Schedule A or Schedule B.

## Purpose of Schedules A and B

Since NYS estate tax does not conform to the reductions in the federal estate tax rates, the reductions and elimination of the federal credit for state death taxes, the deduction for state death taxes, the increases in the applicable exclusion amount (unified credit), the elimination of the qualified family-owned business interest (QFOBI) deduction, or the amendments to the qualified conservation easement exclusion provided for by the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), certain estates must adjust the amounts reported on their federal estate tax return to determine the correct NYS estate tax. Schedules A and B are provided, along with Table A, *Unified rate schedule*, and Table B, *Computation of maximum NYS credit for state death taxes*, so the preparer can make the adjustments applicable to the NYS estate tax.

Estates may elect the QFOBI deduction for NYS by using Schedule A. See instructions for line 32 on page 6 of these instructions.

Estates may have to adjust the federal estate tax (using Table A) and/or the credit for state death taxes (using Table B). Estates of US citizens and residents have to adjust the applicable exclusion amount (unified credit) which is limited to \$1,000,000 for NYS. Some estates must also increase the federal gross estate and taxable estate when the qualified conservation easement exclusion does not qualify for NYS.

## Line instructions

**Note:** Federal form line references are to Form 706, August 2011, and Form 706-NA, July 2011, unless otherwise noted.

### Item a

**Is a federal estate tax return required to be filed with the IRS?** — In the area provided above line 1 on the front page of NYS Form ET-706, indicate if the estate is required to file a federal estate tax return, either federal Form 706 or 706-NA (see *General requirements for filing a federal estate tax return* on the front page of these instructions). Since the federal estate tax return is the starting point for the NYS estate tax return, a completed copy of the federal return must be submitted, even when the estate is below the federal filing threshold.

**Alternate valuation** — When the estate is not required to file a federal estate tax return with the IRS, the estate may elect to use the alternate valuation on the pro-forma federal estate tax return filed with Form ET-706. This may result in a reduced estate tax liability.

The election, as authorized by section 2032 of the IRC, must decrease both the value of the gross estate and the total net estate and GST taxes due after application of all allowable credits. The calculation on the pro-forma federal return must use the tax rates and other provisions for the IRC, with all amendments through July 22, 1998, and the limitations on the unified credit in section 951 of the NYS Tax Law.

To elect alternative valuation, check **Yes** on page 2, Part 3, line 1, of federal Form 706, or page 2, Schedule A, of federal Form 706-NA, filed with NYS Form ET-706. If the estate elects to use the alternate valuation, the election may not be revoked. However, the estate may elect to use the alternate valuation after Form ET-706 is filed, provided the return was not filed later than one year after the due date (including extensions). Refer to the federal instructions and regulations for information on the date that property is to be valued, determining if the estate qualifies, making an election after the return is filed, and how to make a protective election.

### Item b

**Taxable estate for New York State** — Enter the amount from Schedule A, line 26, or Schedule B, line 43.

### Item c

**Gross federal estate tax for New York State** — Enter the amount from Schedule A, line 31, or Schedule B, line 48.

**Line 1 New York State credit for state death taxes** — NYS estate tax is measured by the maximum state death tax credit granted by IRC section 2011, as amended through July 22, 1998. This amount can only be determined by completing Form ET-706, Schedule A or Schedule B. Enter the amount from Form ET-706, Schedule A, line 36, or Schedule B, line 51.

**Line 2** — If there is **no** property located outside NYS, enter **0** on lines 2, 3, 5, 6, and 7, and enter the amount of tax from line 1 on line 8.

If there is property located outside NYS that is included in the federal gross estate, continue with the instructions for lines 2 through 8.

If there is property located outside NYS that is included in the federal gross estate, complete lines 3 through 6 and enter the line 6 amount on lines 2 and 7. Also, complete either Schedule 1 for a resident or Schedule 2 for a nonresident.

**Line 4** — Enter the amount from Schedule A, line 22, or Schedule B, line 39.

**Line 7** — Enter the amount from line 6 (also see the instructions for line 2).

**Line 10** — If an amount is due, make check payable to **Commissioner of Taxation and Finance**.

**Fee for payments returned by banks** — The law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee.

If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

## Schedules 1 and 2

If there is property located outside NYS that is included in the federal gross estate, complete the applicable schedule.

### Schedule 1 — Resident

**Line 13** — Enter the value of any NYS property attributable to a limited power of appointment created before September 1, 1930, that is not included in the federal gross estate, but is required to be included in the NYS gross estate under section 957 of the Tax Law. See explanation of a limited power of appointment created prior to September 1, 1930, below.

### Schedule 2 — Nonresident

**Line 17** — Enter the value of any real and tangible personal property located within NYS that is attributable to a limited power of appointment created before September 1, 1930, that is not included in the federal gross estate, but is required to be included in the

NYS gross estate under Tax Law section 957. See explanation of a limited power of appointment created prior to September 1, 1930, below.

**Limited power of appointment created prior to September 1, 1930** — This particular power and the property covered by the power applies to property conveyed before September 1, 1930, that was subject to NYS estate or death taxes in the estate of the grantor of such power, by virtue of the law then in effect, with the expectation that a deferred tax would be paid by the grantee (donee) of the power upon the exercise of the power. The value of the property passing under such limited power of appointment must be added to the federal gross estate of a deceased resident, if the limited power of appointment is exercised by the decedent by will or by a disposition, such that if it were a transfer of property owned by the decedent, such property would be includable in the NYS gross estate as a transfer under IRC section 2035, 2036, 2037, or 2038.

**Line 30 Worksheet**

**Note:** For columns a, b, and c, enter amounts from federal *Instructions for Form 706 (8/11)*, page 6, Line 7 Worksheet.

For lines 2 and 4, enter amounts from federal *Instructions for Form 706 (8/11)*, page 5, Worksheet TG.

a Calendar year or calendar quarter	b Taxable gifts for this period <i>(from federal Instructions for Form 706 (8/11), page 6, Line 7 Worksheet, column b)</i>	c Total taxable gifts for prior periods <i>(from federal Instructions for Form 706 (8/11), page 6, Line 7 Worksheet, column c)</i>	d Tax payable using Table A <i>(see instructions below)</i>	e Unused unified credit (applicable credit amount for this period) <i>(see instructions on page 6)</i>	f Tax payable for this period <i>(subtract column e from column d)</i>
Total pre-1977 taxable gifts <i>(from federal Instructions for Form 706 (8/11), page 6, Line 7 Worksheet, column b)</i>					
<b>1</b> Total gift taxes payable on gifts made after 1976 <i>(combine the amounts in column f)</i> .....					<b>1.</b>
<b>2</b> Gift taxes paid by the decedent on gifts that qualify for special treatment <i>(from federal Instructions for Form 706 (8/11), page 5, line 2, column e, Worksheet TG)</i> .....					<b>2.</b>
<b>3</b> Subtract line 2 from line 1 .....					<b>3.</b>
<b>4</b> Gift tax paid by decedent's spouse on split gifts included on federal Form 706, Schedule G <i>(from federal Instructions for Form 706 (8/11), page 5, line 2, column f, Worksheet TG)</i> .....					<b>4.</b>
<b>5</b> Add lines 3 and 4 <i>(enter here and on Form ET-706, page 3, Schedule A, line 30)</i> .....					<b>5.</b>

**Instructions for Line 30 Worksheet — federal gift tax on gifts made after 1976**

**Purpose of worksheet** — The maximum federal estate tax rates are reduced for dates of death on or after January 1, 2002. However, NYS uses the prior federal *Unified rate schedule* (reproduced in Table A on page 4 of Form ET-706) to determine estate tax. Using this worksheet to recalculate the amount reported on federal Form 706 (8/11), page 1, Part 2, *Tax Computation*, line 7, may result in a larger amount reportable on line 30 of Schedule A. A larger amount on line 30 results in a lower gross tax on line 31 and possibly a lower NYS estate tax overall.

**Note:** If taxable gifts were made in more than three years or calendar quarters, attach a schedule listing the same information for each calendar year or quarter.

**Columns b and c** — Following the federal instructions for the *Line 7 Worksheet*, enter in columns b and c of this worksheet the amounts reportable in columns b and c of the federal worksheet.

**Column d** — *Tax payable* as used here is a hypothetical amount and does not necessarily reflect tax actually paid. Compute tax payable only on gifts made after 1976. Do not include any tax paid or payable on gifts made before 1977. However, if the decedent made taxable gifts before January 1, 1977, a special computation is required. The amount of federal gift tax payable (line 30) should be

**Schedule A**

**Line 21** — To determine if the property qualified for the qualified conservation easement exclusion under the IRC before the EGTRRA amendments, refer to the instructions for Schedule U in the federal *Instructions for Form 706* (Rev. July 1999), or to NYS Form ET-418, *Computation of Qualified Conservation Easement Exclusion* (1/00 version). If it does not qualify, do not enter anything on line 21.

**Line 24 Qualified family-owned business deduction** — NYS Estate Tax Law does not conform to the changes provided by the federal EGTRRA, which eliminated the QFOBI deduction for dates of death after December 31, 2003. Therefore, the estate may still elect the deduction for purposes of computing its federal taxable estate for NYS.

The estate must make the election for NYS by completing a federal Schedule T, with a revision date of August 2003 or earlier, and attaching it to Form ET-706. Enter the amount of the deduction on line 24. Also refer to the line 32 instructions to determine the maximum unified credit.

determined by using Table A on page 4 of Form ET-706, to compute the cumulative lifetime taxable transfers made both before and after January 1, 1977, and then subtracting the tax payable on the lifetime transfers made before January 1, 1977.

To calculate the tax payable before the unified credit, enter the amounts for the appropriate calendar year or calendar quarter from column b and c on lines 1 and 2, then complete the worksheet below for each calendar year or calendar quarter.

Column d worksheet	
1. Enter the amount from column b.....	1. _____
2. Enter the amount from column c.....	2. _____
3. Add lines 1 and 2.....	3. _____
4. Tax computed on line 3 amount <i>(from Table A on page 4 of Form ET-706)</i> .....	4. _____
5. Tax computed on line 2 amount <i>(from Table A on page 4 of Form ET-706)</i> .....	5. _____
6. Subtract line 5 from line 4 <i>(enter here and in column d for each year or quarter)</i> .....	6. _____

**Column e** — To compute the unused unified credit (applicable credit amount), use the unified credit (applicable credit amount) in effect for the year the gift was made. This amount should be on the federal Form 709, page 1, Part 2, *Tax Computation*, line 12, that was filed for the gift. The cumulative amount for all years must not exceed \$345,800.

**Line 32 Maximum New York State unified credit** — If the estate did not elect the QFOBI deduction, the maximum unified credit is \$345,800. This amount is the equivalent tax on the applicable exclusion amount. The applicable exclusion amount is \$1,000,000.

If the estate elects the QFOBI deduction, the sum of the deduction and the applicable exclusion amount cannot exceed \$1.3 million. Thus, if the maximum deduction of \$675,000 is claimed, the applicable exclusion amount would be limited to \$625,000, and the amount entered on line 32 would be \$202,050.

If the amount of the QFOBI deduction is less than \$675,000, the applicable exclusion amount is increased by the difference between \$675,000 and the amount of the deduction, but the applicable exclusion amount may not exceed \$1,000,000. For example, if the QFOBI deduction claimed is \$665,000, the applicable exclusion amount would be \$635,000 [(\$675,000 - 665,000) + 625,000]. However, if the deduction was \$200,000, the applicable exclusion amount would be limited to the maximum of \$1,000,000, and the amount entered on line 32 would be \$345,800.

## Schedule B

**Line 41 State death tax deduction** — Since NYS does not allow this deduction, the total federal deductions must be reduced by this amount. Enter the amount from federal Form 706-NA (Rev. July 2011), page 2, Schedule B, line 7, if any.

**Line 49 New York State unified credit** — Refer to federal *Instructions for Form 706-NA*, for applicable unified credit amount. Any amount previously allowed as a unified credit against the federal gift tax will reduce, dollar for dollar, the unified credit allowed the estate.

If the decedent was a citizen of a country having a treaty with the United States that affects the unified credit, the *applicable credit amount in effect under section 2010(c)* of the IRC, referred to in section 2102(b)(3)(A) of the IRC, is limited to \$1,000,000, the maximum amount for NYS estate tax purposes.

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This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

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