

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-90 (3) E
Estate and Gift Tax
November 1, 1990

Subject: Chapter 190, Laws of 1990, enacted May 25, 1990 Amendments to Estate and Gift (Article 26 and 26A of the Tax Law)

Chapter 190 of the Laws of 1990 amends the Tax Law, the Estates, Powers and Trust Law, and the Surrogate's Court Procedure Act, as they relate to the imposition of a tax on the transfer of estates. It conforms the New York State Estate and Gift Tax laws to the provisions of the Internal Revenue Code of 1986 and other Federal laws as amended as of December 19, 1989. It amends the procedure with respect to the administration of the estate tax, changes the method of computing the estate tax, imposes a minimum tax on estates of nonresidents, and imposes a tax on certain generation-skipping transfers. Furthermore, Chapter 190 repeals section 2013(g), section 2039(c), section 2210, section 2517, Articles 10-A, 10-B and 10-C, and section 962 of the tax law, and sections 2002 and 2004 through 2008 of the Surrogate's Court Procedure Act.

The attached appendices explain the provisions of Chapter 190 relating to estate tax, gift tax and generation-skipping transfer tax. Appendix A, lists, by reference to both bill section and law section, the provisions of the New York State Tax Law and the New York unconsolidated laws which have been amended or added. Appendix B lists, by reference to bill section and law section, the provisions of the related IRC sections contained in the Tax Law. Appendix C lists, by reference to both bill section and law section, the provisions of the Surrogate's Court Procedure Act which have been amended. Appendix D lists, by reference to both bill section and law section, the provisions of the Estates, Powers and Trusts Law which have been amended. In Appendix A, B, C and D, the effective date of each provision of the law is stated.

Appendix A

Cross-Reference between Bill Section and
Amended Section of New York Tax Law

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
56	951(a) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Provides that any reference to the Internal Revenue Code means the United States Internal Revenue Code of 1986, and that any applicable IRC provisions affecting New York's Estate Tax shall be those in effect as of December 19, 1989.
57	954(a)(5) N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Computation of NY Gross Estate - Was amended by adding a new paragraph to read as follows (5) increased by the value of the property which constitutes the principle of a trust where such trust qualified for purposes of the election made under Section 955(e)(1) of this article. This paragraph shall not apply if Section 1003(a)(4) of this Chapter applied with respect to a disposition by the decedent of part or all of such property.
57	954(b)(2) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Computation of NY Gross Estate - Clarifies the intent of the previous amendment made to this section by Chapter 543 of the Laws of 1985, which was to mirror the provisions of IRC section 2032(c). (No election may be made for alternate valuation unless the election decreases the value of the New York Gross Estate and the amount of the New York Estate Tax (reduced by credits allowable against the tax).)

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
58	955(d) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Subsection (d) is relettered subsection (f), and a new subsection (d) is added which disallows a deduction for federal estate tax on excess accumulation imposed by IRC Section 4980A(d).
58	955(e)(1) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Marital Deduction - Surviving Spouse Not US Citizen. 955(e)(1) was added to require an election to be made by the executor and the surviving spouse to claim a deduction for a New York Marital Deduction as allowed by Section 2056A(a)(3) of the Internal Revenue Code. If such election is made for purposes of the tax imposed by this Article, such surviving spouse, as part of such election, shall consent to be deemed to have been a citizen of the United States for purposes of determining whether such surviving spouse is a resident or nonresident of New York State under this article or article 26-A of this Chapter when he or she transfers the property received from his or her spouse by transfer as to which a marital deduction was allowed pursuant to this paragraph.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
58	955(e)(2) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	955(e)(2) was added to clarify that if an election to treat the surviving spouse as a citizen of the United States is made by the executor and the surviving spouse, Section 2056(d) of the Internal Revenue Code shall not apply under the tax imposed by this article and a marital deduction shall be allowed.
58	955(e)(3) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Was added to provide that any election made pursuant to this subsection, once made, shall be irrevocable. If an election pursuant to this subsection is not made, no marital deduction shall be allowed for a transfer to a surviving spouse who is not a citizen of the United States.
77	1000(a) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Provides that any reference to the Internal Revenue Code for purposes of the New York State Gift Tax, means the United States Internal Revenue Code of 1986, with all amendments enacted on or before December 19, 1989.
78	1003(a)(4) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Provides that any disposition of all or part of the beneficial interest in a trust where such trust qualified for purposes of the election made under Section 955(e)(1) of this Chapter shall be treated as a transfer of all the interest in such trust other than the beneficial interest.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
79	1003(b) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Amended to provide that in determining the total amount of gifts for the purpose of subsection (a) of Tax Law section 1003, Section 2523(i)(2) of the IRC shall not apply.
80	1004(c) N.Y. Eff.: Applicable to gifts made after May 25, 1999.	Subsection (c) is relettered (d) and a new subsection (c) is added which allows a marital deduction where spouse is not a United States citizen if an election to treat the donee spouse as a citizen of the United States is made by the donor and donee spouse in such manner as the Commissioner of Taxation and Finance shall prescribe.
81	1009 N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Makes technical corrections to references to the IRC.
82	2503(e)(2)(B) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Makes technical corrections to references to IRC provisions.
83	2503(f) N.Y. Eff.: Applicable to plan years beginning after December 31, 1989.	Adds a new subsection to conform to IRC provisions.
84	2503(g) N.Y. Eff.: Applicable to loans of artwork made after May 25, 1990.	Adds a new subsection to conform to IRC provisions.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
85	2515 N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Adds a new section to provide that in case of any taxable gift which is a direct skip, under the laws of the tax on generation-skipping transfers, the amount of the gift must be increased by the amount of the generation-skipping transfer tax imposed on the transferor.
86	2515 N.Y. Eff.: Shall only apply for purposes of Section 2523(i)(3), as added by Section ninety-five of this act, so that the principles of the provisions in such sections eighty-six and eighty-seven of Chapter 190 apply under Section 1003 of the Tax Law to transfers of property between spouses where such transfers are to spouses who are not citizens of the United States at the time of transfer and the election permitted under Section 1004(c) has not been made.	Adds a new Section 2515 to conform to federal regarding tenancies by the entirety in real property.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
87	2515A N.Y. Eff.: Shall only apply for purposes of Section 2523(i)(3), as added by Section ninety-five of this act, so that the principles of the provisions in such sections eighty-six and eighty-seven of Chapter 190 apply under Section 1003 of the Tax Law to transfers of property between spouses where such transfers are to spouses who are not citizens of the United States at the time of transfer and the election permitted under Section 1004(c) has not been made.	Adds a new section 2515A regarding transfers by Gift by means of the creation of a tenancy by the entirety in personal property.
88	2517 N.Y. eff.: Applicable to gifts made after May 25, 1990	Repealed.
89	2522(a)(2) N.Y. Eff.: Applicable with respect to activities after May 25, 1990	Was amended to clarify that any contribution to any political campaign on behalf of (or in opposition to) any candidate for public office, will not qualify as an allowable deduction under this section.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
90	2522(b)(2) and (3) N.Y. Eff.: Applicable with respect to activities after May 25, 1990.	Was amended to clarify that any contribution to any political campaign on behalf of (or in opposition to) any candidate for public office, will not qualify as an allowable deduction under this section.
91	2522(d) N.Y. Eff.: Applicable to transfers and contributions made after May 25, 1990.	Subsection (d) is relettered (e) and a new subsection (d) is added to conform to the IRC provision which allows a deduction under subsection (a) in respect of any transfer of a qualified real property interest.
92	2523(a) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Amended to allow a deduction for gifts to a non United States Citizen.
93	2523(f)(4)(A) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Amends the time and manner of taking the gift tax deduction for gifts of certain life estates to a donee spouse. The election to take a deduction for qualified terminable interest property must be made on or before the due date for filing a gift tax return (including extensions).
94	2523(f)(6) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Adds a new paragraph which allows a gift tax deduction for joint and survivor annuities if the donor spouse and donee spouse are the only ones with the right to receive payments before the death of the last spouse to die.
95	2523(i) N.Y. Eff.: Applicable to gifts made after May 25, 1990.	Adds a new subsection which disallows a marital deduction where spouse not citizen of United States.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
96	7872(c)(1) N.Y. Eff.: Shall apply with respect to loans made after May 25, 1990.	Amends subsection to provide reference to subsection (g) relating to exception for certain loans to qualified continuing care facilities.
97	7872(c)(1)(E) N.Y. Eff.: Shall apply with respect to loans made after May 25, 1990.	Amends subsection to provide reference to subparagraph (f) relating to loans to qualified continuing care facilities.
98	7872(c)(1) N.Y. Eff.: Shall apply with respect to loans made after May 25, 1990.	Adds a new subparagraph (f) relating to loans to qualified continuing care facilities which conforms to the IRC.
99	7872(d)(1)(E)(i) N.Y. Eff.: Applicable to taxable years beginning on or after January 1, 1990.	Amends the cross-reference to Section 163(d)(4) of the IRC, due to the redesignation of that subsection under the IRC.
100	7872(f)(2)(B) N.Y. Elf.: Applicable to term loans made and demand loans outstanding after May 25, 1990.	Amends the definition of "applicable federal rate", with respect to demand loans with below-market interest rates. Specifies that the federal rate shall be the federal short-term rate in effect under Section 1274(d) for the period for which the amount of foregone interest is begin determined, compounded semiannually.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
101	7872(f)(5) N.Y. Eff.: Applicable to term loans made and demand loans outstanding after May 25, 1990.	The definition of demand loans was amended to include any loan where the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual.
102	7872(f)(9) N.Y. Eff.: Applicable to term loans made and demand loans outstanding after May 25, 1990.	Provides that any amount treated as received under Section 7872(b) of the IRC shall not require withholding of tax under the withholding provisions of the IRC.
103	7872(f)(11) N.Y. Eff.: Applicable to term loans made and demand loans outstanding after May 25, 1990.	Adds a new paragraph to provide that in the case of any term loan made by an employer to an employee the proceeds of which are used by the employee to purchase a principle residence, the determination of the applicable federal rate shall be made as of the date the written contract to purchase such residence was entered into.
104	7872(f)(12) N.Y. Eff.: Applicable to term loans made and demand loans outstanding after May 25, 1990.	Adds a new paragraph to provide that the below-market interest rate rules, under this section, do not apply to loans between a corporation and an employee stock ownership plan described in Section 4975(e)(7) of the IRC, to the extent that the interest rate on such loan is equal to the interest rate paid on a related securities acquisition loan to such corporation.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
105	7872(g) N.Y. Eff.: Applicable to below-market loans made after May 25, 1990.	Subsection (g) is relettered subsection (h) and a new subsection (g) is added to provide an exception to below-market interest rate rules for certain loans to qualified continuing care facilities pursuant to a continuing care contract if the lender (or the lender's spouse) attains age 65 before the close of any calendar year.
106	Unconsolidated Law re: Sec. 7872 N.Y. Eff.: Applicable to term loans made and demand loans outstanding after May 25, 1990.	Provides that obligations issued by Israel or Poland are exempt from the provisions of IRC Section 7872, if the obligations are payable in United States dollars and an annual rate of no less than four percent.
108	Sec. 962 Articles 10-A, 10-B and 10-C N.Y. Eff.: Applicable to estates or decedents dying after May 25, 1990.	Repealed
109	Sections 951 through 961 N.Y. Eff.: Applicable to estates or decedents dying after May 25, 1990.	Designated Part I of Article 26 and Amended by adding a new part heading to read as follows: <u>COMPUTATION OF TAX</u>
110	Section 951-a N.Y. Eff.: Applicable to estates or decedents dying after May 25, 1990.	Adds a new Section 951-a to define certain terms used in article 26.
111	Section 958-a (d) N.Y. Eff.: Applicable to estates or decedents dying after May 25, 1990.	Amended to provide various corrected Internal Revenue Code and New York State Tax Law references.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
112	Section 959-b N.Y. Elf.: Applicable to estates or decedents dying after May 25, 1990.	Adds a new section to read as follows: Exemptions in other laws not applicable. No exemption provided for in any other article of this Chapter or any other law of this state shall be construed as being applicable in any manner under this article.
113	Section 961(b)(4) N.Y. Eff.: Applicable to estates or decedents dying after May 25, 1990.	Amended to clarify that a federal estate tax return will be considered as accepted as filed only after a written notification has been issued by the secretary of the treasury or his delegate after an audit of such return.
114	Article 26 N.Y. Eff.: Applicable to estates or decedents dying after May 25, 1990.	Amended by adding three new Parts 2, 3 and 4, the heading of Part II to read as follows: <p style="text-align: center;"><u>PART II</u></p> RETURNS AND PAYMENT OF TAX Section 971. Estate tax returns 971-a. Additional proceedings in estates of non-domiciliary decedents. 972. Time and place for filing returns. 973. Signing of returns and other documents. 974. Payment of tax. 975. Liability for tax. 976. Extensions of time. 977. Requirements concerning returns, notices, records and statements. 978. Compromise agreements in cases of disputed domicile. 979. Report of change in federal taxable estate, adjusted taxable gifts, additional estate tax imposed by Section 2032A of the Internal Revenue Code.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
		979-a. Notification by surrogate to commissioner concerning tax.
		980. Change of election.
114	971 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which requires a New York estate tax return be filed when the New York Adjusted Gross Estate of a resident of New York State, or of a nonresident computed as if a resident whose New York Gross Estate includes real and tangible personal property located in New York State, amounts to \$108,333.00 or more.
114	971-a N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section to clarify that every petition for ancillary letters testamentary or of administration and every petition for original letters testamentary or of administration in the estate of a decedent who at the time of death was not domiciled in this State, shall set forth the Commissioner of Taxation and Finance as a party to be cited, and upon the presentation thereof the surrogate shall issue a citation directed to the Commissioner.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
114	972 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section regarding the time and place for filing returns. (a) A person required to make and file a return under this article shall file returns, statements, or other documents, or copies thereof, within nine months after the date of death. (b) The Commissioner of Taxation shall prescribe the place for filing any return required to be filed with such Commissioner pursuant to this article. (c) A person required to make and file returns, statements, or other documents, or copies thereof, under this article shall simultaneously file a duplicate copy with the surrogate's court in the county where the petition was filed to commence either a proceeding for probate of a will or a proceeding for administration in intestacy.
114	973 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which requires all returns, statements or other documents required to be made pursuant to this article to be signed in accordance with instructions prescribed by the Commissioner of Taxation and Finance.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
114	974 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which requires the tax imposed by this article to be paid at the time prescribed in this article by the executor, subject to being by him charged against and collected from the persons interested in the estate, to the Commissioner of Taxation and Finance. The entire tax shall, unless otherwise provided in this article, be paid on or before the date fixed for filing the return required under this article.
114	975 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which requires the tax imposed by this article to be paid by the executor, who shall thereupon charge the same against and collect it from the persons interested in the estate in accordance with the rules of apportionment of Section 2-1.8 and other relevant provisions of the estates, powers and trusts law. Also incorporates existing provisions of the Tax Law with regard to liability of persons in possession of property. (previously Section 249-cc of article 10-C.)
114	976 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which allows the Commissioner of Taxation and Finance to grant a reasonable extension of time for payment of tax (or any installment), or for filing any return, statement or other document required pursuant to this article. Except in the case of executors who are outside the United States, no such extension for filing any return, statement or other document shall

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
		exceed six months. Except as otherwise provided in this article, no such extension for payment shall exceed twelve months from the date fixed for payment.
114	977 N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which allows the Commissioner of Taxation and Finance the authority to prescribe regulations as to the keeping of records, the content and form of returns, statements or other documents, and the filing of copies of federal estate tax returns and determinations.
114	978 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which allows compromise agreements in cases of disputed domicile. Where the Commissioner of Taxation and Finance claims that a decedent was domiciled in this State at the time of his death and the taxing authorities of another state or states make a similar claim with respect to their state or states, the Commissioner of Taxation and Finance may enter into a written agreement with such taxing officials and with the executor that a certain sum shall be accepted in full payment of the tax imposed by this article, provided that said agreement also fixes the amount to be paid to such other state or states in full payment of the death taxes thereof.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
114	979 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which requires that if the amount of the federal taxable estate or the amount of the federal adjusted taxable gifts reported on the federal estate tax return for an estate is changed or corrected by the United States Internal Revenue Service or other competent authority, or if such service or authority makes a determination on account of additional estate tax imposed by Section 2032A of the Internal Revenue Code or if such service or authority changes or corrects the amount of such additional tax, the executor shall report such change or correction or the amount of additional estate tax imposed by such Section 2032A in the federal taxable estate within ninety days after the final determination of such change or correction. Any executor filing an amended federal estate tax return, shall also file within ninety days thereafter an amended return under this article. The executor of every estate which is subject to the United States estate tax shall file with the Commissioner of Taxation and Finance a copy of the final federal determination thereof forthwith after the same is made.
114	979-a N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which allows the surrogate, in his discretion, to notify the Commissioner of Taxation and Finance of any and all matters which come to the surrogate's attention which affect the tax imposed by article 26.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
114	980 N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which gives the Commissioner of Taxation and Finance the authority to change, by regulation, any election expressly authorized by this article in order to conform such election to its equivalent federal election. PART III Section 981. Discharge from liability. 982. Lien for estate tax. 983. Surrogates; assistants and clerks; district tax attorneys.
114	981 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section regarding the discharge of estate tax liability. If a return has been filed and the Commissioner of Taxation and Finance determines that no tax is due, he shall issue a certificate that no tax is due. If a return has been filed and the Commissioner of Taxation and Finance is satisfied that the tax paid is the full amount of tax due, he shall issue a final receipt for tax due. The Commissioner of Taxation and Finance may by regulation prescribe requirements for safe deposit companies, trust companies, banks, corporations, firms or other persons holding safe deposit boxes for rental to the public to maintain and retain records as to the persons who have had access to such safe deposit boxes.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
114	982 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section regarding a lien for estate tax. (a) Unless the tax imposed by this article is sooner paid in full, it shall be a lien upon all property includible in the New York Gross Estate of the decedent for fifteen years from the date of death of the decedent, except that such part of the New York Gross Estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. The lien under subsection (a) of this section shall be subject to the lien of any mortgage indebtedness on real property incurred in good faith prior to the time when the tax under this article became a lien.
114	983 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which establishes the authority for the Commissioner of Taxation and Finance, upon the recommendation of the surrogate, to appoint and remove, assistants and clerks in various surrogate's offices, and to fix their salaries within the amounts appropriated for that purpose.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
		PART IV Procedure and Administration
		Section 990. Applicability of other tax law provisions.
		Section 991. Special rules with respect to interest on under payments of tax.
		Section 992. Additional civil penalties.
		Section 994. Secrecy requirement and penalties for violation.
		Section 996. Special lien and notice of deficiency with respect to the additional estate taxes imposed under sections 954-a and 958-a of this article.
		Section 997. Extensions of time for payment of estate tax where estate consists largely of interest in closely held businesses.
		Section 998. Petition to the Surrogate's Court and Appeal.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
114	990 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section with regard to applicability of other Tax Law provisions. Except as otherwise provided in article 26, all of the provisions of sections 681 through 688 and 691 through 697 of this Chapter shall apply to the provisions of article 26 with the same force and effect as if the language of those sections had been incorporated in full into article 26 and had expressly referred to the tax under article 26, except to the extent that any such provision is either inconsistent with or not relevant to article 26 and except as modified in this section or with such other modifications as may be necessary to adapt the language of such provisions to the provisions of article 26.
114	991 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section with respect to interest on under payments of tax. If the tax is not paid within six months from the date of death of the decedent but is paid within nine months from the date of death of the decedent, interest will be charged at the rate of one-half of one percent if payment is made in the seventh month after the date of death, one percent if paid in the eighth month after the date of death, and one and one-half percent if paid in the ninth month. However, if eighty percent of the tax as finally determined is paid within six months from the date of death and the balance is paid within nine months from the date of death, no interest shall be assessed.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
		<p>If the tax imposed by this article is not paid within nine months from the date of death of the decedent, interest shall be charged commencing from the date of death of the decedent. Where additional tax is impossible because of Section 952(c) of this article, interest shall be charged and collected on the additional tax from the date of the final determination, provided, however, if such additional tax is paid within sixty days after the date of such determination no interest on such additional tax shall be charged or collected.</p>
114	992 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section regarding additional civil penalties attributable to valuation understatement and unlawful transfer of assets.
114	994 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which sets forth the secrecy requirements and penalties for violation thereof as relating to article 26.
114	996 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which provides for a special lien and notice of deficiency with respect to additional estate taxes imposed under sections 954-a and 958-a of article 26.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
114	997 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which incorporates previous sections 962(f) and (g) with regard to extensions of time for payment of estate tax where estate consists largely of interest in closely held businesses.
114	998 N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section which allows the taxpayer the right to petition the Surrogate's Court and appeal a notice of deficiency or a notice of disallowance of a claim for refund issued by the Commissioner of Taxation and Finance with respect to tax under article 26.
115	963 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Renumbered Section 999
116	1811 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to remove references to article 10-C and to make technical changes to language.
117	1825 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to make technical changes to references of the Tax Law.
131	952(a)(1)(A) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Provides that a tentative tax is computed in accordance with paragraph (2) of this subsection.
132	952(a)(2), (3) and (4) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Renumbered paragraphs 4, 5 and 6 respectively, and two new paragraphs 2 and 3 are added. (2) provides the formula for the computation of the tentative tax. (3) Provides the definition of "New York Adjusted Gross Estate" and "New York

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
		Adjusted Taxable Estate" for purposes of computation in paragraph (2) of this subsection.
133	952(a)(4) N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Makes technical corrections to references to this subsection.
135	952(c) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Minimum tax equal to Federal Credit - Adds a new paragraph (2) which provides that the tax computed under this subsection shall be equal to the amount of the maximum federal credit for state death taxes allowable to the estate of a deceased resident against the United States Estate Tax pursuant to Section 2011 of the Internal Revenue Code. If the transfer of any part of the estate is subject to death tax imposed by another state, for which a credit against tax is allowed under IRC Section 2011, the amount of tax computed under this subsection shall be reduced by the lesser of: (A) The amount of death tax paid the other state and credited against the United States Estate Tax; or an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of real and tangible personal property having an actual situs in the other state and subject to the death tax imposed by the other state and the denominator of which is the value of the decedent's New York Adjusted Gross Estate.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
136	959(c) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to limit the credit allowed under this section to that proportion of the amount determined under subsection (a) which the value of the New York Gross Estate bears to the New York Adjusted Gross Estate.
138	960(b) N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Provides that the tax imposed on nonresident estates under subsection (a) shall be the same as the tax that would be due, if the decedent died a resident, except that for purposes of computing the tentative tax under 952(a)(2) and the credit for tax on prior transfers under 959, "New York Gross Estate", as the numerator in section 959(c)(2)(E), shall not include the value of any intangible personal property otherwise includible in the deceased individual's New York Gross Estate.
139	960(c) and (d) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Minimum tax Equal to Federal Credit- Subsections (c) and (d) are relettered subsections (d) and (e) and a new subsection (c) is added which provides that if the tax computed under this subsection exceeds the tax computed under subsection (b) of this section, the amount of such excess shall be added to the tax computed under subsection (b). The tax computed under this subsection shall be the amount of the maximum federal credit allowable, multiplied by a fraction, the numerator of which is the value of the New York Gross Estate determined as if a resident, reduced by the value of any

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
		intangible personal property otherwise includible in the deceased individual's New York Gross Estate, and the denominator of which is the value of the New York Gross Estate determined as if a resident.
141	171-a(1) N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Amended to add reference to article twenty-six-B relating to the generation-skipping transfer tax.
142	951(b) N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Amended to incorporate reference to generation- skipping transfer tax.
143	1000(b) N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Amended to incorporate reference to generation-skipping transfer tax.
144	Article 26-B N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Adds a new article 26-B (Section 1020-1025) to the Tax Law to impose a generation-skipping transfer tax.
144	1020 N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	References applicable Internal Revenue Code provisions.
144	1021 N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Provides definitions for (a) generation-skipping transfer,(b) New York property, (c)Original transferor, and (d)Person, as relates to article 26-B.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
144	1022 N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Provides for a tax to be imposed upon every generation-skipping transfer which includes New York property. The amount of tax is computed by multiplying the maximum amount allowable as a credit for state generation- skipping transfer taxes under Section 2604 of the Internal Revenue Code by a fraction, the numerator of which is the value of the New York property included in the generation- skipping transfer and the denominator of which is the value of all property included in the generation-skipping transfer.
144	1023 N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Provides that every person liable for tax under this article, shall on or before April 15 after a calendar year in which the generation-skipping transfer occurred, file a return in such form as the Commissioner of Taxation and Finance may prescribe. Such person shall pay the tax imposed on such transfer with the filing of the return. (See Bill §146 regarding filing and payment by 3/15/91 for generation-skipping transfers occurring in 1990).
144	1024 N.Y. Elf.: Applicable to all generation-skipping transfers after May 25, 1990.	Provides that all revenue collected or received under this article shall be deposited and disposed of pursuant to Section 171-a of the tax law.

<u>Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
144	1025 N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Includes applicable generation- skipping transfer tax provisions of the United States Internal Revenue Code of 1986.
145	1811(a) and (b) N.Y. Elf.: Applicable to all generation-skipping transfers after May 25, 1990.	Amended to add reference to generation-skipping transfer tax imposed by article twenty-six-B in the criminal provisions applicable to estate and gift taxes.
146	Unconsolidated Law N.Y. Eff.: Applicable to all generation-skipping transfers after May 25, 1990.	Provides that for any transfer occurring during the calendar year 1990 subject to the generation- skipping transfer tax imposed by article 26-B of the Tax Law, each person liable for such tax shall, on or before March 15, 1991, either file the return prescribed pursuant to such article and pay such tax or file a return prescribed by the Commissioner of Taxation and Finance for such purpose and pay an estimated generation-skipping transfer tax.

Appendix B

Cross-Reference between Bill Section
and IRC provisions contained in N.Y. Tax Law

<u>Chapter Bill Section</u>	<u>IRC Section Appended to New York Tax Law</u>	<u>General Content of Amended Provisions</u>
60	2013(g) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Subsection (g) is repealed and a new subsection (g) is added to read as follows: (g)treatment of additional tax under Section 4980A. For purposes of this section, the estate tax paid shall not include any portion of such tax attributable to Section 4980A(d).
61	2032(c)(2) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to conform to the IRC relating to the inclusion of generation-skipping transfers in determining the qualification for alternate valuation.
62	2032A(b)(5)(A) N.Y. Eff.: Applicable with respect to rentals occurring after May 25, 1990.	Provides that for purposes of subsection (c), such surviving spouse shall not be treated as failing to use such property in a qualified use solely because such spouse rents such property to a member of such spouse's family on a net cash basis.
63	2032A(c)(7)(D) N.Y. Eff.: Applicable to taxable years beginning on or after January 1, 1990.	Amends the cross-reference to Section 151(c)(4) of the IRC, due to the redesignation of that subsection under the TRA.
64	2036(c) N.Y. Elf.: Reference to December 17, 1987 in subparagraph (B) of paragraph 1 of subsection (c) shall read May 25, 1990.	Subsection (c) is relettered subsection (d) and a new subsection (c) is added to mirror the federal provisions.

<u>Chapter Bill Section</u>	<u>IRC Section Appended to New York Tax Law</u>	<u>General Content of Amended Provisions</u>
65	2039(c) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Repealed
66	2053(c)(1)(B) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to clarify that this subparagraph shall not apply to any increase in the tax imposed by this chapter by reason of Section 4980A(d).
67	2055(a)(2) and (3) N.Y. Eff.: Applicable with respect to activities after May 25, 1990.	Amended to clarify that any contribution to any political campaign on behalf of (or in opposition to) any candidate for public office, will not qualify as an allowable deduction under this section.
68	2055(f) N.Y. Eff.: Applicable to transfers and contributions made after May 25, 1990.	Relettered (g) and a new subsection (f) is added to provide a deduction in respect of any transfer of a qualified real property interest which meets the requirements of Section 170(h).
69	2056(b)(7) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to add a new subparagraph (c) to conform to the federal provision relating to treatment of survivor annuities.
70	2056 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to add a new subsection (d) to conform to the federal provision relating to disallowance of marital deduction where surviving spouse is not a citizen.
71	2056A N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section to conform to the federal provision regrading qualified domestic trusts.
72	2104(c)N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Makes technical corrections to references to IRC provisions.

<u>Chapter Bill Section</u>	<u>IRC Section Appended to New York Tax Law</u>	<u>General Content of Amended Provisions</u>
73	2105(b)(1) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Makes technical corrections to references to IRC provisions.
74	2210 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Repealed.
75	4980A(d) and (e) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds two new subsections to conform to the federal provisions regarding increased estate tax for excess accumulation and distributions from qualified retirement plans.
76	6166(i) an (j) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Subsections (i) and (j) are relettered (j) and (k) and new subsection (i) is added to conform to the federal regarding certain direct skips.
140	2011 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Adds a new section to conform to federal provisions with respect to credit for state death taxes.
144	2601 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Provides for a tax to be imposed on every generation-skipping transfer.
144	2602 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Provides that the amount of tax imposed by Section 2601 is the taxable amount multiplied by the applicable rate.
144	2603 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Provides that in the case of a taxable distribution, the tax imposed by Section 2601 shall be paid by the transferee, in the case of a taxable termination or a direct skip

<u>Bill Section</u>	<u>Chapter</u> <u>to New York Tax Law</u>	<u>IRC Section Appended</u> <u>Amended Provisions</u>	<u>General</u> <u>Content of</u>
			from a trust, the tax shall be paid by the trustee, and in the case of a direct skip, the tax shall be paid by the transferor.
144	2604 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Provides for a credit against the tax imposed by Section 2601 in an amount equal to the generation-skipping transfer tax actually paid to any state in respect to any property included in the generation-skipping transfer (but not to exceed 5 percent of the tax imposed by Section 2601), if the generation-skipping transfer (other than a direct skip) occurs at the same time and as a result of the death of an individual.	
144	2611 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Defines the term "Generation-Skipping transfer".	
144	2612 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Defines the terms taxable termination; taxable distribution; and direct skip.	
144	2613 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Defines the terms skip person and non-skip person.	
144	2621 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Defines taxable amount in the case of a taxable distribution.	

<u>Chapter Bill Section</u>	<u>IRC Section Appended to New York Tax Law</u>	<u>General Content of Amended Provisions</u>
144	2622 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Defines taxable amount in the case of a taxable termination.
144	2624 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Provides rules for valuation of property included in a generation-skipping transfer.
144	2651 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Provides rules for the determination of the generation to which any person (other than the transferor) belongs, for purposes of the generation-skipping transfer tax.
144	2652 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Defines transferor, trust and trustee, interest, and executor for purposes of the generation-skipping transfer tax.
144	2653 N.Y. Eff.: Applicable to generation-skipping transfers after May 25, 1990.	Provides rules relating to taxation of multiple skips.
144	2654 N.Y. Elf.: Applicable to generation-skipping transfers after May 25, 1990.	Provides rules relating to basis adjustment, certain trusts treated as separate trusts, disclaimers, and limitation on personal liability of trustee.

Appendix C

Cross-Reference between Bill Section and
Amended Section of the Surrogate's Court Procedure Act.

<u>Bill Section</u>	<u>Amended New York SCPA Section</u>	<u>General Content of Amended Provisions</u>
118	209(2) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to remove reference to court orders in transfer and estate tax proceedings.
119	210(2)(b) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to clarify that the court does not have jurisdiction over the payment of taxes under article 26 of the Tax Law to the Commissioner of Taxation and Finance.
120	725 N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Amended to insure that the surrogates court is notified of an estate's value based on a tax return filed under article twenty-six of the Tax Law.
121	1310(7) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to delete reference to article 10-C.
122	1804(3) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended for technical corrections in language.
123	Article 20 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amends the heading of article 20 to read as follows: PROCEEDING TO OPEN SAFE DEPOSIT BOX.
124	2002, 2004, 2005, 2006, 2007 and 2008 N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Repealed.

<u>Bill Section</u>	<u>Amended New York SCPA Section</u>	<u>General Content of Amended Provisions</u>
125	2402(1) and (2) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to clarify that an estate's value as shown on a tax return filed under article 26 of the Tax Law will be considered for the computation of court fees for the probate of a will and for a proceeding for administration in intestacy.
126	2402(3) N.Y. Eff.: Applicable to estates of decedents dying after May 25, 1990.	Amended to provide that no tax proceeding filing fee shall be due with respect to a nonresident estate when the sum of the New York Adjusted Gross Estate (determined as if the decedent had been a resident) and the adjusted taxable gifts, as defined in the Tax Law, is less than three hundred thousand dollars and no state estate tax is due.
127	2402(6) N.Y. Elf.: Applicable to estates of decedents dying after May 25, 1990.	Amended to provide that the fee for filing a petition pursuant to Section 2203 shall be based on the estate of the decedent as shown in the estate tax return filed under article 26 of the Tax Law or a proceeding under such article.
263	2402, 5, 8, 9, 10, 11, 12, 13, 14, 15 and 16 N.Y. Eff.: May 26, 1990.	Amended to reflect the increase in the various court fees provided for in the subdivisions.

Appendix D

Cross-Reference between Bill Section and
Amended Section of the Estates, Powers and Trusts Law

<u>Bill Section</u>	<u>Amended New York EPTL Section</u>	<u>General Content of Amended Provisions</u>
107	Section 2-1.13 N.Y. Elf.: Applies only with respect to property transferred after May 25, 1990.	Adds a new section which provides that if any part of the gross tax estate on which tax has been paid consists of the value of property included in the gross estate by reason of Section 2036 of the Internal Revenue Code, the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax which has been paid as the value of such property bears to the taxable estate.