

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

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Estate & Gift Tax
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Subject: 1997 Amendments to Estate and Gift Taxes (Article 26 and 26A of the Tax Law)

On August 10, 1997, Governor George E. Pataki signed Chapter 577 into Law. This Act contained a provision eliminating the \$25 fee to process a release of the estate tax lien. The fee is eliminated for applications received on or after August 11, 1997, from estates of individuals dying after May 25, 1990.

On August 7, 1997, Governor George E. Pataki signed Chapter 389 into Law. This Act amends the Tax Law, the Estates, Powers and Trusts Law, the Surrogate's Court Procedure Act and the Banking Law as they relate to the imposition of the tax on the transfer of estates. The following changes to the New York State estate and gift tax laws were made by Chapter 389:

Effective October 1, 1998, and applicable to estates of individuals dying on or after that date and before February 1, 2000, the estate tax unified credit is increased from \$2,950 to \$10,000. This increase in the unified credit exempts taxable estates of \$300,000 or less from New York State estate tax. Because of the increase in the unified credit, if the New York adjusted gross estate and New York adjusted taxable gifts total less than \$300,000, there is no requirement for those estates to file a New York State estate tax return. Also, effective October 1, 1998, and applicable to estates of individuals dying on or after that date, the due date for payment of the estate tax, without incurring interest, is increased from six months to seven months. For estates of individuals dying on or after February 1, 2000, the due date for payment of estate tax is nine months after the date of death, and interest on underpayments is computed from that date.

Effective January 1, 1999, and applicable to gifts made in calendar year 1999, the maximum unified credit for gift tax is increased from \$2,950 to \$10,000. This increase in the unified credit exempts any lifetime transfers by gift of \$300,000 or less from New York State gift tax.

Effective January 1, 2000, the New York State gift tax is repealed for gifts made on or after January 1, 2000.

Effective February 1, 2000, and applicable to estates of individuals dying on or after that date, the requirement to file a New York State estate tax return will be essentially the same as the requirement to file a federal return. This means that beginning February 1, 2000, if no federal estate tax return is required, no New York State return is required. On that date the filing threshold will be \$675,000, and will be increased periodically to one million dollars in the year 2006.

Effective February 1, 2000, and applicable to estates of individuals dying on or after that date, the estate tax payable to New York State will be limited to the maximum amount allowed on the federal estate tax return as a credit for state death taxes. As a result, the total amount of the New York State estate tax paid will be deductible from any federal estate tax that may be payable.

Effective February 1, 2000, and applicable to estates of individuals dying on or after that date, a bank, trust company, corporation brokerage house, or other person in possession of securities, deposits, or other assets belonging to or standing in the name of a decedent, may deliver or transfer such assets to the executor or joint tenant, without notifying the Tax Department, and without retaining any part of such assets to pay the estate tax which may become due, or without obtaining an estate tax waiver. Also, an insurance company may release the proceeds of a life insurance policy on the life of an individual dying on or after February 1, 2000, without notifying the Tax Department, and without retaining any of the proceeds, or without obtaining an estate tax waiver.

Effective February 1, 2000, and applicable to estates of individuals dying on or after that date, the requirement to simultaneously file a copy of the estate tax return with the Surrogate Court, and the filing fee are repealed. However, each Surrogate Court may enact its own rule to require a copy of the return be filed with the court.

The attached appendices explain the provisions of Chapter 389 relating to estate tax and gift tax. Appendix A lists, by reference to both act section and law section, the amended provisions of the New York State Tax Law. Appendix B lists, by reference to both act section and law section, the provisions of the related Internal Revenue Code (IRC) sections contained in the Tax Law. Appendix C lists, by reference to both act section and law section, the provisions of the Surrogate's Court Procedure Act which have been amended. Appendix D lists, by reference to both act section and law section, the provisions of the Estates, Powers and Trusts Law which have been amended. Appendix E lists, by reference to both act section and law section, the provisions of the Banking Law which have been amended. In Appendices A, B, C, D and E the effective date of each provision of the law is stated.

References in Article 26 (estate tax) and Article 26-A (gift tax) of the New York Tax Law, are to the federal estate tax and gift tax provisions of the Internal Revenue Code as amended through November 5, 1990. They do not include changes to the Code made by the federal Taxpayer Relief Act of 1997 enacted on August 5, 1997.

Appendix A

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

<u>Act Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
4	951(a)(Applicable internal revenue code provisions) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	For purposes of New York estate tax, adopts the federal unified credit allowable on date of death, not to exceed a unified credit equal to the tax on \$1 million.
5	951(b) Eff. date: Applicable to gifts made on or after January 1, 2000	Repeals references to the gift tax law.
6	951-a(e) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Amends subsection (e) to eliminate the reference to a person liable for the taxes imposed under sections 954-a and 958-a from the meaning of the term "taxpayer".
7	951-a(f), 953, 954(a)(3)(4)(5), 954-a, 955, 956, 957(c), 958-a, 958-b, 959, 959-a, 972(d), 991, 996, 996-a, and 997(1) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals various sections and subsections of the Tax Law in connection with adoption of a "pick-up" tax equal to the federal credit for state death taxes.

<u>Act Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
7	Article 26-A(the gift tax) Eff. date: Applicable to gifts made on or after January 1, 2000	Repeals Article 26-A of the Tax Law(the gift tax).
8	952(b)(Resident's estate tax) Eff. date: Applicable to estates of individuals dying on or after October 1, 1998 and before February 1, 2000	Increases the maximum unified credit to \$10,000.
9	952(Resident's estate tax) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals section 952, and adds a new section 952, imposing a pickup tax, equal to the maximum allowable federal credit for state death taxes.
10	954(a)(1)(Resident's NY gross estate) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Amends subsection (a)(1) by removing the reference to section 956, which is repealed effective February 1, 2000, and adds wording that retains the deduction for real and tangible personal property outside New York in determining a resident's gross estate.
11	954(b)(Resident's NY gross estate) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Values the New York gross estate as of the federal valuation date or dates.

<u>Act Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
12	954(c)(Resident's NY gross estate) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals subsection (c) of section 954. Amends subsection (d) with reference to IRC provisions, and reletters subsection (d), as subsection (c).
13	959-b(Exemptions in other laws not applicable) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Renumbers section 959-b to section 958.
14	960(b)(Nonresident's estate tax) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Amends section 960(b) relating to the computation of a nonresident's estate tax
15	960(c)(Nonresident's estate tax) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals section 960(c)
16	971(a)(Estate tax returns) Eff. date: Applicable to estates of individuals dying on or after October 1, 1998, but before February 1, 2000	Amends paragraphs (1) and (2), of subsection (a), by increasing the estate tax return filing threshold from \$115,000, to \$300,000.

<u>Act Section</u>	<u>General Content of Amended Provision</u>	<u>Amended New York Tax Law Section</u>
17	971(a)(Estate tax returns) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals subsection (a), and adds a new subsection (a). This links the requirement to file a New York State estate tax return to the requirement to file a federal return.
18	972(c)(Time and place for filing returns) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Amends subsection (c), so that estates will no longer be required to simultaneously file a copy of the estate tax return with the Surrogate Court, unless required by a rule of the individual court.
20	975(e)(Liability for tax) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals subsection (e), the waiver provisions, and reletters subsection (f) as (e).
21	979(a)(Report of change in federal taxable estate, adjusted taxable gifts, additional estate tax imposed by section 2032A of the internal revenue code) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Amends subsection (a), deleting references to federal adjusted taxable gifts and additional estate taxes imposed by section 2032A of the IRC.

<u>Act Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
22	981(d),(g)(Discharge from liability) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals subsections (d) and(g), which limits discharges of liability when additional taxes are imposed under sections 954-a, 958-a, and 958-b. It reletters subsections (e),(f),(h), and (i), as (d),(e),(f), and(g), respectively.
23	982(c)(Lien for estate tax) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Amends section 982(c) by deleting the reference to liens for additional taxes.
24	990(b)(6)(Applicability of other tax law provisions) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals paragraph 6 of subsection (b), and adds a new paragraph 6, that permits the assessment of tax at any time within six years after the return is filed if the estate omits an amount that is (1) properly includible in the federal gross estate, federal taxable estate, or New York gross estate and (2) in excess of twenty- five percent of the amount stated in the return for any of such items, respectively.

<u>Act Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
25	991(a)(Special rules with respect to interest on underpayments of tax) Eff. date: Applicable to estates of individuals dying on or after October 1, 1998 and before February 1, 2000.	Amends subsection (a), changing from six months to seven months, the time within which the estate tax must be paid to avoid interest and lower the interest rate by one-half percent for payments made in the eighth and ninth months after the date of death.
26	992(b)(Additional civil penalties) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Repeals subsection (b), which imposes a penalty on an institution or person who failed to serve notice on the Department, or retain the tax, as required by section 975(e).
27	997(a)(Extensions of time for payment of estate tax where estate consists largely of interest in closely held businesses) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000	Amends subsection (a), by eliminating the references to paragraphs 3,4, and 5, of subsection (a) of section 954 which are repealed, in determining the adjusted gross estate.
28	1002(a)(3)(A)(Rate of tax; liability) Eff.date: Applicable to gifts made in the calendar year 1999	Increases the maximum unified credit on such gifts to \$10,000.

<u>Act Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provision</u>
29	1020(b)(Applicable internal revenue code provisions) Eff. date: Applicable to gifts made on or after January 1, 2000.	Deletes references in Article 26-B, the Generation Skipping Transfer Tax, to gift tax, and sections of Article 26- A(the gift tax), which will be repealed effective January 1, 2000, for gifts made on or after that date.
30	1023(b)(1) (Administration) Eff. date: Applicable to gifts made on or after January 1, 2000.	Deletes the references in Article 26-B, the Generation Skipping Transfer Tax, to section 1007, which is repealed effective January 1, 2000, for gifts made on or after that date.

Appendix B

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

<u>Act Section</u>	<u>IRC Section Appended to New York Tax Law</u>	<u>General Content of Amended Provision</u>
34	2012,2013,2053,2054, 2055, 2056, 2056A and 4980A(d) of the IRC. Eff.: date Applicable to estates of individuals dying on or after February 1, 2000.	Repeals these various sections contained in the Appendix to Article 26 of the Tax Law.

Appendix C

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

<u>Act Section</u>	<u>Amended New York SCPA Section</u>	<u>General Content of Amended Provisions</u>
33	2402(3)(Fees; amount of.) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000.	Repeals subdivision 3, which imposed a fee for filing estate tax returns and other documents with the court, that were required to be filed by section 972 of the Tax Law.

Appendix D

Cross-Reference between Act Section and
Amended Section of the Estates, Powers and Trust Law

<u>Act Section</u>	<u>Amended New York EPTL Section</u>	<u>General Content of Amended Provisions</u>
32	Section 2-1.12(Right to recover state estate and gift taxes in the case of certain marital deduction property) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000.	Repeals section 2-1.12. This section established the estate's right to recover from the person or persons receiving the property, the state estate tax paid by the estate on property that was includible in the taxable estate by reason of section 954(a)(4) of the Tax Law. In the case of gift tax paid on property included in taxable gifts by reason of section 1003(a)(3) of the Tax Law, the person treated as transferring such property currently has the right to recover the tax from the person receiving such property.

Appendix E

Cross-Reference between Act Section and
Amended Section of the N.Y. Banking Law

<u>Act Section</u>	<u>Amended New York Banking Law Section</u>	<u>General Content of Amended Provisions</u>
31	677(Decedents' accounts, withdrawals by authorized persons) Eff. date: Applicable to estates of individuals dying on or after February 1, 2000.	Repeals subdivision 2. Amends subdivision 1 by deleting the reference to section 975(e) which is repealed effective February 1, 2000, for estates of individuals dying on or after that date.