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## Frequently Asked Questions on Estate Taxes

Below are some of the more common questions and answers about Estate Tax issues. You may also find additional information in [Publication 559](#) or some of the other forms and publications offered on our [Forms Page](#). Included in this area are the instructions to Forms 706 and 709. Within these instructions, you will find the tax rate schedules to the related returns. If the answers to your questions can not be found in these resources, we strongly recommend visiting with a tax practitioner.

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### When can I expect the Estate Tax Closing Letter?

For all estate tax returns filed on or after June 1, 2015, estate tax closing letters will be issued only upon request by the taxpayer. Please wait at least four months after filing the return to make the closing letter request to allow time for processing. For questions about estate tax closing letter requests, call (866) 699-4083.

### For estate tax returns filed before June 1, 2015

There can be some variation, but for returns that are accepted as filed and contain no other errors or special circumstances, you should expect to receive your closing letter about 4 to 6 months after the return is filed. Returns that are selected for examination or reviewed for statistical purposes will take longer.

For estate tax returns filed after January 1, 2015 and before June 1, 2015		
If...	And...	Then:
The filing threshold was met	<ul style="list-style-type: none"> <li>• No portability election was made; or</li> <li>• The portability election not denied; or</li> <li>• The portability election was denied due to a late filing</li> </ul>	A closing letter will be issued
The filing threshold was not met	<ul style="list-style-type: none"> <li>• No portability election was made; or</li> <li>• The portability election was not denied</li> </ul>	A closing letter will be issued
	The portability election was denied due to a late filing	No closing letter will be issued
The return was filed pursuant to Rev. Proc. 2014-18	The portability election was not denied	A closing letter will be issued
	The portability election was denied due to failure to meet the requirements	No closing letter will be issued

### What is included in the Estate?

The Gross Estate of the decedent consists of an accounting of everything you own or have certain interests in at the date of death ([Refer to Form 706 \(PDF\)](#)). The fair market value of these items is used, not necessarily what you paid for them or what their values were when you acquired them. The total of all of these items is your "Gross Estate." The includible property may consist of cash and securities, real estate, insurance, trusts, annuities, business interests and other assets. Keep in mind that the Gross Estate will likely include non-probate as well as probate property.

### I own a 1/2 interest in a farm (or building or business) with my brother (sister, friend, other). What is included?

Depending on how your 1/2 interest is held and treated under state law, and how it was acquired, you would probably only include 1/2 of its value in your gross estate. However, many other factors influence this answer, so you would need to visit with a tax or legal professional to make that determination.

### What is excluded from the Estate?

Generally, the Gross Estate does not include property owned solely by the decedent's spouse or other individuals. Lifetime gifts that are complete (no powers or other control over the gifts are retained) are not included in the Gross Estate (but taxable gifts are used in the computation of the estate tax). Life estates given to the decedent by others in which the decedent has no further control or power at the date of death are not included.

### What deductions are available to reduce the Estate Tax?

1. Marital Deduction: One of the primary deductions for married decedents is the Marital Deduction. All property that is included in the gross estate and passes to the surviving spouse is eligible for the marital deduction. The property must pass "outright." In some cases, certain life estates also qualify for the marital deduction.
2. Charitable Deduction: If the decedent leaves property to a qualifying charity, it is deductible from the gross estate.
3. Mortgages and Debt.
4. Administration expenses of the estate.
5. Losses during estate administration.

### What other information do I need to include with the return?

See [Form 706 \(PDF\)](#) and [Instructions \(PDF\)](#) and [Publication 559](#). Among other items listed:

1. Copies of the death certificate
2. Copies of the decedent's will and/or relevant trusts
3. Copies of appraisals
4. Copies of relevant documents regarding litigation involving the estate
5. Documentation of any unusual items shown on the return (partially included assets, losses, near date of death transfers, others).

### What is "Fair Market Value?"

Fair Market Value is defined as: "The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate." Regulation §20.2031-1.

### What about the value of my family business/farm?

Generally, the fair market value of such interests owned by the decedent are includible in the gross estate at date of death. However, for certain farms operated as a family farm, reductions to these amounts may be available.

In the case of a qualifying family farm, IRC 2032A allows an inflation-adjusted reduction from value of up to \$1,090,000 for 2014, and \$1,100,000 for 2015.

A similar deduction for a qualifying family owned business (IRC 2057) was repealed beginning in 2004.

### What if I do not have everything ready for filing by the due date?

The estate's representative may request an extension of time to file for up to six months from the due date of the return. However, the correct amount of tax is still due by the due date and interest is accrued on any amounts still owed by the due date that are not paid at that time.

### Who should I hire to represent me and prepare and file the return?

The Internal Revenue Service cannot make recommendations about specific individuals, but there are several factors to consider:

1. How complex is the estate? By the time most estates reach \$1,000,000, there is usually some complexity involved.
2. How large is the estate?
3. In what condition are the decedent's records?
4. How many beneficiaries are there and are they cooperative?
5. Do I need an estate tax professional?

With these questions in mind, it is a good idea to discuss the matter with several estate tax professionals. Ask about how much experience they have had and ask for referrals. This process should be similar to locating a good physician. Locate other individuals that have had similar experiences and ask for recommendations. Finally, after the individual(s) are employed and begin to work on estate matters, make sure the lines of communication remain open so that there are no surprises during administration or if the estate tax return is examined.

Finally, most estates engage the services of both attorneys and CPAs or Enrolled Agents (EA). The attorney usually handles probate matters and reviews the impact of documents on the estate tax return. The CPA or EA often handles the actual return preparation and some representation of the estate in matters with the IRS. However, some attorneys handle all of the work. CPAs and EAs may also handle most of the work, but cannot take care of probate matters and other situations where a law license is required. In addition, other professionals (such as appraisers, surveyors, financial advisors and others) may need to be engaged during this time.

#### **Do I have to talk to the IRS during an examination?**

You do not have to be present during an examination unless an IRS representative needs to ask specific questions. Although you may represent yourself during an examination, most executors prefer that professional(s) they have employed handle this phase of administration. They may delegate authority for this by signing a designation on the [Form 706](#) (PDF) itself, or executing [Form 2848 "Power of Attorney"](#) (PDF).

#### **What if I disagree with the examination proposals?**

You have many rights and avenues of appeal if you disagree with any proposals made by the IRS. [See Publications 1](#) (PDF) and [5](#) (PDF) for an explanation of these options.

#### **What happens if I sell property that I have inherited?**

The sale of such property is usually considered the sale of a capital asset and may be subject to capital gains (or loss) treatment. However, IRC §1014 provides that the basis of property acquired from a decedent is its fair market value at the date of death, so there is usually little or no gain to account for if the sale occurs soon after the date of death. (Remember, the rules are different for determining the basis of property received as a lifetime gift). Refer to [Gift Tax FAQ](#).

#### **INTERNATIONAL: In a Form 706NA, how do I claim a pro-rata unified credit pursuant to a treaty?**

Complete the entries for Lines 1 through 3 in Schedule B on the second page of the return. Attach a statement to the return that refers to the particular treaty applicable to the estate, and write that the estate is claiming its benefits. Show your computation of the pro-rata unified credit in the statement, and enter that figure in the Tax Computation on Line 7 on the front page of the return. Attach to the Form 706NA a copy of the return filed with the treaty partner. If no estate or inheritance tax return has been filed with the treaty partner, explain in your statement why no foreign return was due. If there was no foreign return, attach a copy of an inventory that sets forth the decedents assets and their values at the date of death, and explains how the figure shown on Line 3 of Schedule B was computed.

#### **INTERNATIONAL: In a Form 706NA, how do I claim an exemption from U.S. estate tax pursuant to a treaty?**

In Schedule A of the return, list the estates U.S. assets, but show no values for those that are exempt from U.S. estate tax pursuant to a treaty. Attach a statement to the return that refers to the particular treaty applicable to the estate, and write that the estate is claiming its benefits. Entries for the gross estate in the U.S., the taxable estate, and the tax amounts, should be "0" if all of the decedents U.S. assets are exempt from U.S. estate tax pursuant to the applicable treaty. Attach to the Form 706NA a copy of the return filed with the treaty partner. If no estate or inheritance tax return has been filed with the treaty partner, explain in your statement why no foreign return was due.

Most information for this page came from the Internal Revenue Code: Chapter 11--Estate Tax (generally Internal Revenue Code §2001 and following, related regulations and other sources.)

#### **Will my same-sex spouse be considered a surviving spouse for purposes of the marital deduction for estate tax purposes?**

For federal tax purposes, the terms "spouse," "husband," and "wife" includes individuals of the same sex who were lawfully married under the laws of a state whose laws authorize the marriage of two individuals of the same sex and who remain married. Also, the Service will recognize a marriage of individuals of the same sex that was validly created under the laws of the state of celebration even if the married couple resides in a state that does not recognize the validity of same-sex marriages.

However, the terms "spouse," "husband and wife," "husband," and "wife" do not include individuals (whether of the opposite sex or the same sex) who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as a marriage under the laws of that state, and the term "marriage" does not include such formal relationships.

All property that is included in the gross estate and passes to the surviving spouse is eligible for the marital deduction. The property must pass "outright." In some cases, certain life estates also qualify for the marital deduction.

For further information, including the timeframes regarding filing claims or amended returns, see [Revenue Ruling 2013-17](#).

[Revenue Ruling 2013-17](#), along with updated [Frequently Asked Questions for same-sex couples](#) and updated [FAQs for registered domestic partners and individuals in civil unions](#), are available today on IRS.gov. See also [Publication 555](#), Community Property.

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If you have suggestions or comments (or suggested FAQs) for the Estate and Gift Tax website, please contact us: [CONTACT ESTATE AND GIFT TAX](#). We will not be able to respond to your email, but will consider it when making improvements or additions to this site.

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