



# Estate Tax (Form 706)



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## Estate Tax (Form 706)

At death, all property of the decedent is included in the gross estate for estate tax. Taxable gifts made after 1976 are added to the total. The estate is allowed deductions for funeral expenses, administrative expenses, decedent's debts, and state death taxes. Most property passing to a surviving spouse or charity is also fully deductible.

### States with Estate or Inheritance Tax

Connecticut	Kentucky*	Nebraska*	Rhode Island
District of Columbia	Maine	New Jersey*	Vermont
Hawaii	Maryland	New York	Washington
Illinois	Massachusetts	Oregon	
Iowa*	Minnesota	Pennsylvania*	

\* Inheritance tax only.

Estate tax is due if the net estate is more than the estate tax exclusion for the year of death (\$11,400,000 in 2019). The estate receives a credit for gift tax payable by the donor during life.

### Estate Tax Exclusion

Year of Death	Exclusion	Credit Against Tax
1987 – 1997	600,000	192,800
1998	625,000	202,050
1999	650,000	211,300
2000 – 2001	675,000	220,550
2002 – 2003	1,000,000	345,800
2004 – 2005	1,500,000	555,800
2006 – 2008	2,000,000	780,800
2009	3,500,000	1,455,800
2010 – 2011	5,000,000*	1,730,800
2012	5,120,000*	1,772,800
2013	5,250,000*	2,045,800
2015	5,430,000*	2,117,800
2016	5,450,000*	2,125,800

### Estate Tax Exclusion continued

Year of Death	Exclusion	Credit Against Tax
2017	5,490,000*	2,141,800
2018	11,180,000*	4,417,800
2019	11,400,000*	4,505,800

Executors of 2010 estates could opt out of estate tax by electing modified carryover basis.

\* Plus any unused estate/gift tax exclusion of predeceased spouse if portability election was made.

### 2019 Estate and Gift Tax Rate Schedule

\$ 0 to 10,000	× 18%	minus \$ 0	= Tax
10,001 to 20,000	× 20%	minus 200	= Tax
20,001 to 40,000	× 22%	minus 600	= Tax
40,001 to 60,000	× 24%	minus 1,400	= Tax
60,001 to 80,000	× 26%	minus 2,600	= Tax
80,001 to 100,000	× 28%	minus 4,200	= Tax
100,001 to 150,000	× 30%	minus 6,200	= Tax
150,001 to 250,000	× 32%	minus 9,200	= Tax
250,001 to 500,000	× 34%	minus 14,200	= Tax
500,001 to 750,000	× 37%	minus 29,200	= Tax
750,001 to 1,000,000	× 39%	minus 44,200	= Tax
1,000,001 and over	× 40%	minus 54,200	= Tax

## Marital Deduction

An unlimited deduction is allowed for transfers to a spouse during life and for assets passing to a surviving spouse at death. **Exceptions:**

- Assets passing to a spouse who is not a U.S. citizen.
- Certain terminable interests.

The marital deduction does not exclude assets from tax but rather postpones tax until the death of the second spouse. Assets that pass to a surviving spouse are included in the surviving spouse's estate and taxed at his or her death. Transfers that could allow taxable assets to pass to someone other than the spouse without estate tax generally do not qualify for the marital deduction.



## Estate Tax (Form 706)

### Noncitizen Spouses

Gifts to a spouse who is not a U.S. citizen do not qualify for the marital deduction. A taxpayer is allowed a higher annual exclusion for gifts to a noncitizen spouse (\$155,000 in 2019).

**Exceptions:** Assets passing at death to a noncitizen spouse qualify for the marital deduction if:

- The assets pass to the spouse in a qualified domestic trust, or
- The spouse is a U.S. resident who becomes a U.S. citizen before the due date for the estate tax return.

If a marital deduction is not allowed, and the surviving spouse's estate is later subject to U.S. estate tax, the surviving spouse's estate receives a credit for tax paid on the first spouse's death.

### Terminable Interests

A terminable interest is one that will end after a period of time or when some contingency occurs or fails to occur (life estates, annuities, estates for a term of years, patents, etc.). Terminable interests are not deductible if:

- The donor retained or gave an interest in the same property to anyone other than the spouse, and
- Someone other than the spouse may possess or enjoy any part of the property after the spouse's interest ends.

## Marital Estate Tax Planning

Since every taxpayer is allowed an estate tax exclusion, a married couple can potentially shield twice the exclusion amount from estate tax. If the exclusion of the first spouse to die is unused, the couple will pay more in estate tax overall. To maximize the full estate tax exclusion for both, a married couple can elect portability of the estate tax exclusion of the first spouse to die.

### Exclusion Unused

If a couple does not elect portability, all of a couple's assets pass to the surviving spouse and the couple loses the chance to use the exclusion of the first spouse to die.

### Portability of the Estate Tax Exclusion

A predeceased spouse's unused estate tax exclusion may be transferred to his or her surviving spouse if an election is made on a timely-filed estate tax return (Form 706). The surviving spouse can use the unused exclusion for lifetime gifts or transfers at death.

The unused exclusion is the lesser of:

- The unused exclusion of the last deceased spouse of the surviving spouse, or
- The basic exclusion amount that applies at the time of the surviving spouse's death. (If the estate tax exclusion decreases between the first spouse's death and the surviving spouse's death, the lower amount applies.)

**Example:** Wanda died in January 2019. All her assets passed to her husband, Ralph, except a \$300,000 IRA that named Wanda's sister as beneficiary. Wanda's executor filed an estate tax return electing to transfer her unused exclusion of \$11.10 million (\$11.40 million minus \$300,000) to her surviving spouse. Ralph died in December 2019 with assets of \$20 million. His exclusion of \$11.40 million plus Wanda's unused exclusion of \$11.10 million eliminate his estate tax.

### Charitable Deduction

An unlimited deduction is allowed for most transfers to charity during life and for assets passing to charity at death. Deductible contributions are similar to those allowed for income tax. Contributions to non-governmental organizations outside the U.S. are generally deductible. Only certain gifts of partial interests in property, such as remainders and trust shares, are deductible.

## Valuation

The value of assets reported on Form 706 is generally the fair market value on the date of death. Assets may be valued using special use valuation or alternate valuation.

## Contact Us

There are many events that occur during the year that can affect your tax situation. Preparation of your tax return involves summarizing transactions and events that occurred during the prior year. In most situations, treatment is firmly established at the time the transaction occurs. However, negative tax effects can be avoided by proper planning. Please contact us in advance if you have questions about the tax effects of a transaction or event, including the following:

- Pension or IRA distributions.
- Significant change in income or deductions.
- Job change.
- Marriage.
- Attainment of age 59½ or 70½.
- Sale or purchase of a business.
- Sale or purchase of a residence or other real estate.
- Retirement.
- Notice from IRS or other revenue department.
- Divorce or separation.
- Self-employment.
- Charitable contributions of property in excess of \$5,000.

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