



Instructions for Form ET-130

Tentative Payment of Estate Tax

Recent changes

The addback of taxable gifts has been extended for estates of decedents dying on or after January 16, 2019, and before January 1, 2026. An *includible gift* is any taxable gift under Internal Revenue Code (IRC) § 2503 that was made during the preceding three-year period ending on the decedent's date of death and that is not already included in the decedent's federal gross estate. However, taxable gifts do not include any gift made:

- when the decedent was not a resident of New York State;
- before April 1, 2014;
- between January 1, 2019, and January 15, 2019; or
- that is real or tangible personal property having an actual situs outside New York State at the time the gift was made.

For estates of decedents dying on or after January 1, 2019, and before January 16, 2019, there is no addback of taxable gifts.

The Tax Law requires a New York qualified terminable interest property (QTIP) election to be made directly on a New York estate tax return for decedents dying on or after April 1, 2019. Any election made under this subsection is irrevocable.

Any QTIP from a previously allowed New York marital deduction must be included in the surviving spouse's New York gross estate, whether the QTIP election was made on the transferring spouse's New York estate tax return or via a federal proforma return if an actual federal return was not otherwise required. See *line 1* for specific instructions.

General instructions

Purpose of Form ET-130

Form ET-130 should only be used to make a tentative payment of estate tax. Be sure to use the version of Form ET-130 that is applicable to the date of death.

Extension of time to file and/or pay the estate tax

If you need an extension of time to file the estate tax return or pay the estate tax, or both, file Form ET-133, *Application for Extension of Time to File and/or Pay Estate Tax*. You must file Form ET-133 within nine months after the decedent's date of death. The estate may also make a tentative payment of the estate tax with Form ET-133, when it requests an extension of time to file the return or an extension of time to pay the tax.

Interest and penalty

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.

Penalty – 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% (New York State Tax Law §§ 990 and 685(a)(2)). This penalty is in addition to the interest charged for late payments, and may be waived if you attach an explanation showing reasonable cause for paying late.

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,

day, and year), and county of residence. If you have not submitted a copy of the death certificate, mark an **X** in the box and attach a copy. If the decedent was not a resident of New York State at the time of death, mark an **X** in the box and attach a completed Form ET-141, if one was not submitted previously.

Power of attorney

Note: Unless a change in representation or authority is being made, Form ET-14 should only be submitted to the department once. You **do not** have to send Form ET-14 in with each estate tax form you file. If Form ET-14 was submitted previously, indicate the form it was sent in with, and the date that form was submitted.

Attorney/representative information

If the estate is represented by an attorney, accountant, or other authorized representative, and a Form ET-14, *Estate Tax Power of Attorney*, has not been submitted previously, you may submit one at this time by attaching it to this form and marking an **X** in the POA box next to the attorney's/representative's name above.

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 is appointed, qualified, and acting within the United States, *executor* means any person in actual or constructive possession of any property of the decedent with sufficient knowledge to file an accurate return.

If an executor has not been appointed, this form may be 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.

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 New York State) in the area provided, and attach a list of each of the other executors with their mailing address and Social Security number.

Note: If *Letters Testamentary* or *Letters of Administration* have been obtained from surrogate's court but not submitted, attach a copy of them to this form and indicate in the space provided the type of letters you are submitting.

Specific instructions

Line 1 – Refer to federal Form 706, page 3, part 5, line 11; or Form 706-NA, page 2, Schedule B, line 1. If the decedent was a surviving spouse who received QTIP from their spouse, the amount of the QTIP **must be included** as part of the estimated value of federal gross estate regardless of whether the transferring spouse was required to file a federal estate tax return.

Line 4 – For estates of decedents dying on or after January 16, 2019, enter the estimated value of all includible gifts that would be taxable gifts under IRC § 2503 made during the three-year period ending on the individual's date of death that were not otherwise included in the federal gross estate.

See *Recent changes* section of these instructions for information on *includible gifts*.

Note for New York State nonresidents: Only include gifts if they were real or tangible personal property having an actual location in NYS, or were intangible personal property employed in a business, trade or profession carried on in New York State.

Line 5 – List the amount of any New York QTIP previously allowed on the predeceased spouse's New York State estate tax return, regardless of whether a federal estate tax return was required to be filed by the transferring spouse.

Line 6 – 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 related to the decedent's death, and any recovery from the cause of action (litigation) will bring into the estate an asset not otherwise in the estate, such as a recovery for the decedent's pain and suffering in a wrongful death action, list the fair market value of the decedent's interest in the cause of action as of the date of death.

Line 7 – Estimated value of any property received under a Power of Appointment issued prior to 1930. For a definition of the term *power of appointment*, refer to Form ET-706-I, *Instructions for Form ET-706*, for dates of death on or after January 1, 2019.

Line 10 – Refer to federal Form 706, page 3, part 5, line 24; or Form 706-NA, page 2, Schedule B, line 8. Do not include deductions relating to property located outside of New York State.

Line 12 – Compute the tax using the tax table on page 6 of Form ET-706. Subtract from the tax amount computed any applicable credit (see Form ET-706-I, page 4, line 3 instructions).

Where to file

Mail this form and your payment to: **NYS Estate Tax, Processing Center, PO Box 15167, Albany, NY 12212-5167.**

Private delivery services – If not using U.S. Mail, see Publication 55, *Designated Private Delivery Services*.

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