

Maine Estate Tax Law Updates



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Overview



- ❧ Maine Estate Tax Law
- ❧ The Current State of the Maine Estate Tax Law
- ❧ No State Portability
- ❧ Maine QTIP
- ❧ Nonresident Concerns
- ❧ Joint Tenancy Update

Maine Estate Tax Rates for deaths occurring after January 1, 2013



Estates of 2013 Decedents

1			2	3	4
If Maine taxable estate is			subtract	Multiply	
More than:	BUT	Not more than:	From Maine adjusted taxable estate:	result by:	Add:
<u>\$0</u>		<u>\$2,000,000</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>
\$2,000,000		\$5,000,000	\$2,000,000	8.00%	\$0
\$5,000,000		\$8,000,000	\$5,000,000	10.00%	\$240,000
\$8,000,000			\$8,000,000	12.00%	\$540,000

Maine Estate Tax Calculation for deaths occurring after January 1, 2013



☞ The Maine taxable estate is fairly simple calculation based on the federal taxable estate, decreased by the Maine QTIP property, increased by the Maine elective property and also increased by the taxable gifts made within one year of death. This means that other than gifts made within one year of death, completed gifts made during one's lifetime will escape Maine estate tax at death.

No State Portability



- ❧ Currently no state allows portability of a deceased spouse's exclusion/threshold amount to the surviving spouse.
- ❧ Spouses who may wish to simplify their estate plans by leaving everything to their surviving spouse using only portability will not be able to take advantage of the state's estate tax exclusion/threshold amount.

The Maine QTIP Election



- ❧ The Maine QTIP election is claimed to maximize the federal estate tax exclusion without incurring immediate Maine tax liability.
- ❧ The election postpones Maine estate tax on the Maine QTIP property from the estate of a decedent with a surviving spouse until the death of that spouse.
- ❧ The value of the Maine QTIP trust is included in the federal taxable estate of the first decedent, but is treated as having passed to the surviving spouse for Maine estate tax purposes.
- ❧ Property eligible for the QTIP election must qualify for the marital exemption under federal law.

Making the Maine QTIP Election



- ❧ After the death of the first spouse, an amount equal to the federal exclusion is transferred to the decedent's federal taxable estate and the remaining assets are transferred to the surviving spouse and included in the marital deduction.
- ❧ The Maine QTIP trust is then funded with property included in the federal taxable estate having a value not exceeding the difference between the federal exclusion amount and the Maine exclusion amount.
- ❧ After the election, the Maine taxable estate is equal to the federal taxable estate less the value of the Maine QTIP. If the value of the Maine taxable estate is equal to or less than the Maine exclusion amount, the estate will owe no Maine estate tax.
- ❧ When the second spouse dies, their federal taxable estate is increased by the value of the remaining Maine QTIP (now referred to as Maine elective property) to calculate the Maine taxable estate.

Nonresident Estate Tax Calculation



✧ If a 2014 nonresident decedent had a Maine taxable estate valued at \$5 million, including a \$500,000 home in Maine, the calculation would be as follows:

✧ Gross Federal Estate	\$5,000,000
✧ Initial Tax (8% of \$3,000,000)	\$240,000
✧ Maine % of Gross Estate $10\% = (\$500,000 \div \$5,000,000)$	
✧ Maine Estate Tax	\$24,000

Estate Planning Issues for Nonresidents



- ❧ There is a general misunderstanding by nonresidents that if their Maine taxable estate is less than \$2 million, that they will not be required to file.
- ❧ The focus for nonresidents, in estate planning, should be on the value of their total assets, including their Maine assets.
- ❧ If the total value of assets, both in Maine and out-of-state, are more than \$2 million, the nonresident estate will need to file an estate tax return.

Nonresident Pass-Through Entities



- ❧ MRS will look through pass-through entities owning Maine property and tax a nonresident decedent on their ownership interest.
- ❧ The look through provision applies only if:
 1. The entity does not actively carry a for-profit business;
 2. The pass-through entity's ownership was not for a legitimate business purpose; or
 3. The property was acquired by other than a bona fide sale and the decedent retained an interest in the property.

Joint Tenancy Update



- ❧ The 1986 law was unclear on whether surviving spouses of joint tenants needed to file for a release of the estate tax before conveying the property to a third party.
- ❧ The 2013 revision includes the additional language: For those that died after June 30, 1986 and before January 1, 2013 and those dying after January 1, 2013: “The lien does not attach to any property passing by right of survivorship to a surviving joint tenant who was the decedent’s spouse on the decedent’s date of death.”
- ❧ If the decedent’s property was held in joint tenancy, by spouses who were married at the time of the decedent’s death, the property passes free and clear of the estate tax lien.
- ❧ For those dying after January 1, 2013, not in joint tenancy, a 10 year limitation is imposed on the estate tax lien.