

What recent legislative changes affect the Maryland estate tax?

During the 2012 Legislative Session the Maryland General Assembly enacted the Family Farm Preservation Act of 2012, which adds a new subsection to Title 7 of the Tax-General Article allowing for the exclusion of up to \$5,000,000 of the value of qualified agricultural property from the value of the gross estate for decedents dying after December 31, 2011. The new provision also provides that the Maryland estate tax may not exceed 5% of the value of specified agricultural property exceeding \$5,000,000. Maryland qualified agricultural exclusion forms may be obtained by calling the Estate Tax Unit at (410) 260-7850.

Legislation enacted during the 2014 legislative session gradually conforms the Maryland estate tax exemption amount to the value of the unified credit under the federal estate tax, thereby increasing the amount that can be excluded for Maryland estate tax purposes. The increase in the amount that can be excluded for Maryland estate tax purposes is phased over five years and is equal to (1) \$1.5 million for a decedent dying in calendar year 2015; (2) \$2.0 million for a decedent dying in calendar year 2016; (3) \$3.0 million for a decedent dying in calendar year 2017; (4) \$4.0 million for a decedent dying in calendar year 2018; and (5) the amount excluded under the federal estate tax for a decedent dying on or after January 1, 2019. Check the Internal Revenue Service website for information on the federal estate tax exemption.

Most recently, the Maryland General Assembly enacted legislation during the 2015 legislative session that changed the option allowing Maryland estate tax returns to be filed with the Register of Wills or with the Comptroller. Beginning July 1, 2015, all Maryland estate tax returns must be filed directly with the Comptroller. Requests for certification of the amount of inheritance paid on behalf of a decedent will be made by the Comptroller only; such certification requests should no longer be made by the personal representative of the decedent's estate or any other person required to file a Maryland estate tax return with regard to property passing from the decedent.

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Registers of Wills

Allegany	301-724-3760
toll-free	1-888-724-0148
Anne Arundel	410-222-1430
toll-free	1-800-679-6665
Baltimore City	410-752-5131
toll-free	1-888-876-0035
Baltimore	410-887-6680
toll-free	1-888-642-5387
Calvert	410-535-0121
toll-free	1-888-374-0015
Caroline	410-479-0717
toll-free	1-888-786-0019
Carrol	410-848-2586
toll-free	1-888-876-0034
Cecil	410-996-5330
toll-free	1-888-398-0301
Charles	301-932-3345
toll-free	1-888-256-0054
Dorchester	410-228-4181
toll-free	1-888-242-6257
Frederick	301-600-6565
toll-free	1-888-258-0526
Garrett	301-334-1999
toll-free	1-888-334-2203
Harford	410-638-3275
toll-free	1-888-258-0525
Howard	410-313-2133
toll-free	1-888-848-0136
Kent	410-778-7466
toll-free	1-888-778-0179
Montgomery	240-777-9600
toll-free	1-888-892-2180
Prince George's	301-952-3250
toll-free	1-888-464-4219
Queen Anne's	410-758-0585
toll-free	1-888-758-0010
St. Mary's	301-475-5566
toll-free	1-888-475-4821
Somerset	410-651-1696
toll-free	1-888-758-0039
Talbot	410-770-6700
toll-free	1-888-822-0039
Washington	301-739-3612
toll-free	1-888-739-0013
Wicomico	410-543-6635
toll-free	1-888-786-0018
Worcester	410-632-1529
toll-free	1-888-256-0047

FOR ADDITIONAL INFORMATION:
call the **Comptroller of Maryland** at

410-260-7850 (Central Maryland)
1-800-MD TAXES
(from elsewhere in Maryland)

8:00 a.m. to 5:00 p.m. eastern time

E-mail: taxhelp@comp.state.md.us

web site: www.marylandtaxes.com

- forms and publications
- fill out the interactive Combined Registration Application online to register new business tax accounts
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Hearing impaired individuals may call:
Maryland Relay Service (MRS) 711

If you need a reasonable accommodation for a disability, please contact us before your visit

What you *need to know* about Maryland's estate tax

MARYLAND TAX TIP 42



Peter Franchot

What is the Maryland estate tax? What is the rate?

The Maryland estate tax is a transfer tax imposed on the transfer of assets from an estate. It is based on the maximum credit for state death taxes allowable under § 2011 of the Internal Revenue Code. The credit used to determine the Maryland estate tax cannot exceed 16% of the amount by which the decedent's taxable estate exceeds the Maryland estate tax exemption amount for the decedent's year of death. Note: For decedents dying after December 31, 2001, the maximum allowable credit for state death taxes will not be reduced, for purposes of the Maryland estate tax, by any act of Congress enacted on or after January 1, 2001.

What about the inheritance tax?

The inheritance tax is a separate tax collected by the Register of Wills located in the county where the decedent either lived or owned property. The tax is imposed on the clear value of property that passes from a decedent to some certain beneficiaries. It is levied on property that passes under a will, the intestate laws of succession, and property that passes under a trust, deed, joint ownership, or otherwise. For more information, contact the Office of the Register of Wills.

What if Maryland inheritance and estate taxes are both due? Isn't that double taxation?

The inheritance tax paid to the Register of Wills is subtracted from the gross Maryland estate tax liability and the difference is the Maryland estate tax due. If the inheritance tax paid is equal to or exceeds Maryland's determination of the credit for state death taxes, no Maryland estate tax is due.

However, the Maryland estate tax is owed and due until the inheritance tax is actually paid. If the amount of inheritance tax paid to the Register of Wills on or before the due date of the Maryland estate tax is less than the gross Maryland estate tax liability, interest and/or penalty will be assessed on the outstanding liability. Interest will continue to accrue until the inheritance tax paid equals or exceeds the outstanding estate tax liability. See *Comptroller of the Treasury v. Jameson*, 332 Md. 723, 633 A.2d 93 (1993). For example, Estate owes \$150,000 of estate tax, due by the nine (9) month statutory due date of January 1, 2014. Estate made two \$75,000 payments of inheritance tax, one on December 1, 2013, and one on February 1, 2014. Because only \$75,000 was paid

by the estate tax due date, interest will be due on the remaining \$75,000 from January 1, 2014 through February 1, 2014 when the amount of inheritance tax paid to the Register of Wills equaled the Maryland estate tax liability.

Who is responsible for filing the Maryland estate tax return?

The duly appointed personal representative of the decedent's estate must file the return. If there is more than one personal representative, the return must be made jointly by all. If there is no personal representative appointed, every person in actual or constructive possession of any property of the decedent is required to make and file a return.

What are the requirements for filing a Maryland estate tax return?

A Maryland Estate tax return is required for every estate whose federal gross estate, plus adjusted taxable gifts, plus property for which a Maryland Qualified Terminal Interest Property (QTIP) election was previously made on a Maryland estate tax return filed for the estate of the decedent's predeceased spouse, equals or exceeds the Maryland estate tax exemption amount for the year of the decedent's death, and the decedent at the date of death was a Maryland resident or a nonresident but owned real or tangible personal property having a taxable situs in Maryland.

The filing requirement varies depending on the year of the decedent's death.

Year	Gross Estate Federal exemption amount
2020 & after	
2019	\$5,000,000
2018	\$4,000,000
2017	\$3,000,000
2016	\$2,000,000
2015	\$1,500,000
2002-2014	\$1,000,000
2000-2001	\$675,000
1999	\$650,000
Prior to 1999	Contact us

The gross estate includes all property, real or personal, tangible or intangible, wherever situated, in which the decedent had an interest. It includes such items as annuities, joint assets with right of survivorship, transfers made without adequate consideration, the includible portion of tenancies by the entirety, certain life insurance proceeds, and general power of appointment property to name a few. The value of the property must be based

upon an appraisal from a Certified Appraiser. The probate estate is property of the decedent owned individually or as tenants in common. Non-probate property is property that passes by the terms of the instrument under which it is held or by operation of law. As a reminder, the total gross estate for estate tax purposes includes probate and non-probate property. Refer to §2031 of the Internal Revenue Code to determine the value of the gross estate.

How do I file the Maryland return? And when?

Once you've determined a Maryland estate tax return is required to be filed for the estate, complete the federal estate tax return, IRS Form 706, for the date of the decedent's death. You will be required to complete the federal return even though you may not be required to file the return with IRS.

Using the information from the federal return, complete the Maryland estate tax return, Form MET-1. Make sure to use the form appropriate for the date of the decedent's death. See Maryland Estate Tax for a list of MET-1 forms.

File the return within nine (9) months after the decedent's date of death, or by the approved extension date. The Maryland estate tax return must be filed directly with the Comptroller of Maryland.

Include the federal return, complete with all schedules, attachments and supporting documents when filing the Maryland estate tax return. In all cases, you must submit a certified death certificate, the last will and testament and any applicable trusts. Mail the estate tax return to:

Comptroller of Maryland
Revenue Administration Division
Estate Tax Unit
P.O. Box 828
Annapolis, MD 21404-0828

Upon receipt, the Comptroller will send the return to the Register of Wills for completion of Section III to certify the payment of inheritance taxes.

Where do I pay the Maryland estate tax?

Pay *directly* to the Comptroller of Maryland on or before the due date of the Maryland estate tax return. Mail to:

Comptroller of Maryland
Revenue Administration Division
Estate Tax Unit
P.O. Box 828
Annapolis, MD 21404-0828

Are there interest or penalty charges for late payment of the tax?

Yes. Maryland law provides for interest and late payment penalty if the tax is not paid when due. Interest is assessed on any portion of the liability that is not satisfied by the statutory due date, notwithstanding the fact that the tax is paid pursuant to an approved alternative payment schedule. A penalty of up to 10% is charged on any Maryland estate tax not paid by the due date.

Can I get an extension to file the Maryland return or pay the Maryland estate tax?

The Comptroller of Maryland may extend the time to file an estate tax return up to six months, or up to one year if the person required to file the return is out of the United States. There are also provisions for granting an alternative payment schedule for the tax payment.

The request for an extension must be in writing and filed on or before the due date of the Maryland estate tax return. The request must include:

- Completed Form MET-1E, Application for Extension of Time to File the Maryland Estate Tax Return.
- A copy of the federal extension application Form 4768 including attachments, if applicable
- Remittance of estimated Maryland estate tax, unless estimated tax calculation shows no tax due or an alternative payment schedule is also requested.

Can I get a refund if I overpay?

The law allows for refunds of Maryland estate tax up to three years from the date of the event that causes the refund to become due. File an amended Maryland estate tax return to make a request for a refund of previously paid Maryland estate tax.

What about the income tax on an estate?

An estate may be required to file a Maryland fiduciary income tax return, Form 504. Contact the Revenue Administration Division for assistance with fiduciary returns by calling 410-260-7980 in Central Maryland or 1-800-MD TAXES from elsewhere in the state, Monday through Friday, 8:30 a.m. – 4:30 p.m.