



Filing Requirements for New York Estate and Generation-Skipping Transfer Taxes Not Affected by the Federal 2010 Tax Relief Act

- Form ET-706, *New York State Estate Tax Return*, is due within nine months after the date of death for estates of individuals dying in 2010.
- Form ET-500, *Generation-Skipping Transfer Tax Return for Distributions*, and Form ET-501, *Generation-Skipping Transfer Tax Return for Terminations*, are due no later than April 15, 2011, for 2010 distributions or terminations.

Federal estate tax reinstated

On December 17, 2010, President Obama signed into law the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (federal 2010 Tax Relief Act). Among other things, the federal 2010 Tax Relief Act reinstates the federal estate tax for individuals dying after December 31, 2009, and before January 1, 2013. The act gives estates of individuals dying after December 31, 2009, and before January 1, 2011, the option to elect not to come under the federal estate tax for 2010. If this election is made, the modified carryover basis rules under the federal Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) apply.

For estates of individuals dying after December 31, 2009, and before December 17, 2010, the 2010 Tax Relief Act extends the due date for filing a federal estate tax return and making a payment of federal estate tax to September 19, 2011.

Federal generation-skipping transfer tax

The 2010 Tax Relief Act provides that, for generation-skipping transfers made after December 31, 2009, and before January 1, 2011, the applicable federal tax rate is zero percent.

For generation-skipping transfers made after December 31, 2009, and before December 17, 2010, the due date for filing any federal return, including any elections required to be made on the return, is extended to September 19, 2011.

New York estate tax due dates

Since the New York State estate tax is generally conformed to the federal Internal Revenue Code of 1986, including all amendments enacted on or before July 22, 1998, the amendments made by the 2010 Tax Relief Act, including extensions for dates of death in 2010,

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Estate Tax
Generation-Skipping Transfer Tax
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do not apply. Estates of individuals dying after December 31, 2009, and before January 1, 2011, must file Form ET-706, *New York State Estate Tax Return*, within nine months after the date of death, unless the estate has been granted an extension of time to file. (See *Extension of time to file a New York estate tax return*, below.)

Estates must submit a federal estate tax return with the New York State return, even if the estate is not required to file with the Internal Revenue Service. For dates of death in 2010, an estate may use the applicable federal return for 2010 if it is available before the due date (or extended due date) of the New York State return. Otherwise, the estate should use the federal return for 2009, Form 706 (Rev. 9-2009), or Form 706-NA (Rev. 9-2009) for the pro-forma federal estate tax return.

Extension of time to file a New York estate tax return

If necessary, an executor may apply for an extension to file or pay the estate tax by filing Form ET-133, *Application for Extension of Time to File and/or Pay Estate Tax*, within nine months after the date of death. If the application is approved, Form ET-706 will be due within fifteen months after the date of death. See Form ET-133 for more details.

Generation-Skipping Transfer Tax

The New York State generation-skipping transfer (GST) tax does not conform either to the changes provided by the federal EGTRRA or the federal 2010 Tax Relief Act. Therefore, skip-person distributees must file Form ET-500, *Generation-Skipping Transfer Tax Return for Distributions*, and trustees must file Form ET-501, *Generation-Skipping Transfer Tax Return for Terminations*, no later than April 15, 2011, for 2010 distributions or terminations. Additionally, the New York State GST tax rate is 2.75% (5% of the federal GST tax rate of 55% that was in effect in 2001).

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.