

**New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau**

TSB-M-80 (6)
Estate and Gift Tax

Subject: Qualifications and general information for extension of time where estates consists largely of interest in farms or closely held businesses.

A special installment plan is allowable for payment of all or part of the tax for all qualified estates that consist largely of an interest in a closely held business. It is effective for estates of decedents dying on or after August 11, 1977.

The provisions of section 6166 and section 6166A of the internal revenue code apply to section 962-(f) with minor adjustments in language to conform with related provisions of Article 26 of the Tax Law.

Internal revenue code section 6166 allows for the deferral of tax payments for 5 years followed by 2 or more yearly installments of tax for a maximum of 10 years. Interest accrues from the effective date of the extension and is payable each year beginning 1 year and 9 months from the date of death on the unpaid portion until the tax is paid in full. To qualify for this installment provision the value of the decedents interest in a closely held business must exceed 65% of the federal adjusted gross estate.

Section 6166A allows for the first installment of tax to be paid 9 months after the date of death with 1 or more subsequent yearly installments of tax and interest for a maximum of 9 additional years in total. To qualify for this installment provision the value of the decedents interest in a closely held business must be either 35% of the total federal gross estate or 50% of federal taxable estate.

If the estate does not qualify under the provisions of section 6166, it may qualify under section 6166A. Either election must be made within 9 months from the date of death. If an election is timely made under either section, a protective election can be made under the other section at the same time. Within 60 days after the values have been finally determined, a letter containing a final notice of election must be filed.

The maximum amount of the tax that can be deferred and paid in installments under section 6166 is the amount that bears the same ratio as the qualified property to the adjusted federal gross estate. Under section 6166A the maximum amount to be deferred is the amount that bears the same ratio as the qualified property to the federal gross estate.

If the deferred tax is \$54,000.00 or less, the rate of interest is 4% per year. If the tax exceeds \$54,000.00, the interest rate is 8½% per year on the excess. If the total tax exceeds \$54,000.00, an installment payment of the tax reduces the 4% portion, (\$54,000.00) by the same ratio that such portion bears to the entire tax before any installments are made.

The balance of the tax that is not extended under section 962(f) is due and payable under the provisions of section 249-z of the Tax Law. Normally, the balance is less than 80% of the entire tax. Therefore, it must be paid in full within 6 months to avoid any interest on that portion. If an extension is granted under section 249-z, the interest rate is 6% per year beginning 6 months after the date of death for a maximum of 4 years from the date of death.