

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

TSB-M-82 (2)
Estate & Gift Tax
December 31, 1982

Amendments to Estate Tax law enacting new interest and
penalty provisions effective January 15, 1983

Chapters 916 and 917, Laws of 1982, adopted many of the provisions of the Economic Recovery Tax Act of 1981 (ERTA) and the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and introduces new interest rates and penalty charges for late payment of estate tax. The following highlights the interest and penalty changes.

Interest

Interest rates apply to taxes and interest which remain or become due or overpaid during the period in which such rate is in effect.

1. Payments, including partial payments, of estate tax are not subject to interest if they are made within six months of the decedent's date of death.
2. Where 80% of the tax, as finally determined, is paid within six months from the date of death, no interest is charged on payments made within nine months from the date of death.
3. Where less than 80% of the tax, as finally determined, is paid within six months from the date of death and payments are made within nine months from the date of death, the following interest rates apply:

<u>Month from date of death within which payment is made</u>	<u>Amount to be charged as Interest on payment</u>
7th	1/2%
8th	1%
9th	1 1/2%

4. Taxes remaining due after nine months from the date of death, are charged interest compounded daily from the date of death to the date of payment. The interest rate applicable for the period January 15, 1983 through February 28, 1983 is 13 1/2% per annum. This rate is subject to change on March 1 of each year and may be adjusted by the Tax Commission on September 1 of each year.
5. Where an extension of time for payment of tax is granted, interest is compounded daily on the amount of tax to which the extension applies computed from the expiration of the ninth month from the date of death to the date of payment.
6. Where an additional tax is imposed as a result of the federal credit for State death taxes exceeding the tax as computed under New York State tax law, interest will not be imposed on the additional tax if it is paid within 60 days after the date of the final federal determination. If it is not paid within 60 days, interest is imposed at the applicable rate or rates compounded daily from the date of the final federal determination to the date of payment.

Penalty

1. Where any taxes remain unpaid after the expiration of nine months from the date of death, there is imposed a penalty of $\frac{1}{2}\%$ for each month or fraction thereof, not exceeding 25% in the aggregate, on the taxes remaining unpaid beyond the ninth month. If it is shown to the surrogate that failure to pay the tax is due to reasonable cause and not willful neglect, no penalty will be imposed.
2. Where an extension of time is granted and the portion of tax to which the extension of time applies is not paid within the period of extension, the above penalty is applied to the unpaid portion.
3. Where an additional tax is imposed as a result of the federal credit for State death taxes exceeding the tax as computed under New York State tax law, the penalty will not apply to the additional tax if it is paid within 60 days after the date of the final federal determination. Otherwise the penalty is applied from the date of the final federal determination to the date of payment.

Refunds

Where the executor has made a temporary payment prior to assessment of the tax and the amount of the payment exceeds the tax as finally determined by the surrogate, interest will be paid on the excess at the applicable rate or rates in effect, compounded daily from the date of the final determination of the surrogate.

Transitional Provisions

1. With respect to estates of decedents dying prior to July 1, 1982, where payment of at least 80% of the tax, as finally determined, has been made within six months from the date of death, no interest or penalty will be imposed if the balance of the tax due is paid within fifteen months from the date of death but not later than June 1, 1983, whichever occurs first.
2. Where the executor has made a temporary payment prior to assessment of the tax and prior to January 15, 1983, and the amount of the payment exceeds the tax as finally determined by the surrogate, interest on the refund will be paid under the provisions of the law existing at the time of the temporary payment.