

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

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Estate and Gift
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Status of Cash in a Safe-Deposit Box

For purposes of New York State estate tax and New York State gift tax, money in a safe-deposit box located within New York State is tangible personal property with a situs in the State and is subject to tax.

Subdivision (f), section 249-m of Article 10-C of the Tax Law defines "tangible personal property" to mean "...corporeal personal property, including money..." and "intangible personal property" to mean "...incorporeal personal property, including deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidence of an interest in property, evidence of debt and choses in action generally." Section 962(b)(1) of Article 26 of the Tax Law adopts by reference the definition applicable under Article 10-C of the Tax Law.

Tangible personal property located in a safe-deposit box, such as provided by banks, is deemed, to be separated from the person and to have a situs of its own.

Section 960 of Article 26 of the Tax Law imposes tax on the transfer of real and tangible personal property having an actual situs in New York State from any deceased individual who was not a resident of New York State at the time of death, where the property is includible in the federal gross estate or would be includible in the New York gross estate of a resident decedent pursuant to section 957 of Article 26, (relative to certain limited powers of appointment).

Section 1003 (a)(2) of Article 26-A of the Tax Law determines the New York gifts of a New York nonresident to include the portion of total gifts made in any calendar year within the meaning of section 2503 of the Internal Revenue Code, attributable to gifts of real or tangible personal property having an actual situs in New York State.

Accordingly, when a safe-deposit box located in New York State contains cash, the cash shall be treated as tangible personal property having a situs within the State. The transfer of such cash from a deceased individual, who was not a resident of New York State at the time of death, is subject to the New York estate tax and the gift of such cash by a New York nonresident constitutes a New York gift subject to New York gift tax.

The transfer of intangible personal property, such as bank deposits, bonds and stock from a nonresident decedent, on the other hand, is not subject to the New York estate tax. With respect to gift tax, transfers of intangible personal property by a nonresident are included in determining New York taxable gifts only if such intangible personal property is employed in carrying on a business in the State (Tax Law § 1003(a)(2)).