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# Guidance Document

## Application of Exclusion Amounts under the Maine Estate Tax

# APPLICATION OF EXCLUSION AMOUNTS UNDER THE MAINE ESTATE TAX

Beginning in 2002, Maine decoupled from federal estate tax law changes enacted under EGTRRA. Maine tax law now requires that the state estate tax be calculated partially according to the Code in effect at the date of death and partially according to the Code under prior years. The Maine estate tax is calculated using the exclusion and related unified credit amounts in effect for the date of death as reported in the Code as of December 31, 2000. The state death tax calculation is based, with limited exceptions, on the Code in effect on December 31, 2002. All other calculations are to be based on the Code in effect on the date of death. The intent of Maine law is to tax estates in the same manner as they would have been taxed had EGTRRA not been enacted.

The taxability of an estate is determined by the applicable exclusion amount. Generally, if an estate's value is greater than the exclusion amount, the estate is taxable; if the value is below the exclusion amount, the estate is not taxable. Different exclusion amounts are now used in determining the taxability of an estate for federal and state tax purposes, but the determination of the value of the taxable estate is the same for both state and federal purposes. The rates at which the taxable estate is taxed at the federal level depend on the aggregate value of the taxable estate and "adjusted taxable gifts." (line 5 on federal Form 706). The tentative federal tax on the sum of the taxable estate and adjusted taxable gifts is then reduced by the amount of the gift taxes paid or payable on post 1976 gifts. This results in the amount of federal estate tax to which credits are applied to determine the net estate tax payable.

Some have taken the position that the taxability of Maine estates should be measured using the taxable estate only and not taxable estate plus prior taxable gifts. However, Maine's decoupling from federal estate tax law did not change the base amount against which the exclusion amounts are applied. Maine's estate tax law provides, in part, that the adjusted taxable estate is to be determined using the applicable Code provisions. Those provisions require that the value of the taxable estate of the decedent include the amount of prior taxable gifts.

The law clearly provides how the amount of the taxable estate is determined. To compute the taxable estate without including the amount of prior taxable gifts would be contrary to the provisions of the Code. Additionally if the computation of the taxable estate did not include the value of prior taxable gifts, some estates that are taxed for federal purposes under the current higher federal exclusion amount would escape Maine tax, despite the state's lower exclusion amount, a result clearly contrary to the intent of Maine's law.

## EXAMPLES:

For both examples, assume that the taxable estate is equal to \$750,000 and that \$3,000,000 in prior taxable gifts are reported.

### Example #1 – Date of death is in 2000

Taxable estate = \$750,000

Adjusted taxable gifts = \$3,000,000 (gifted in 1996)

Total = \$3,750,000

Tentative tax = \$1,703,300

Gift tax payable = \$1,098,000

Unified credit = \$220,550

Tentative federal tax =  $1,703,300 - 1,098,000 - 220,550 = \$384,750$

Credit for state death tax = (based on  $750,000 - 60,000$ ) = \$20,400

In this scenario, the state estate tax would be \$20,400 and the federal estate tax would be \$364,350 ( $384,750 - 20,400$ ).

### Example #2 – Date of death is in 2004

Taxable estate = \$750,000

Adjusted taxable gifts = \$3,000,000 (gifted in 2000)

Total = \$3,750,000

Tentative tax = \$1,620,800

Gift tax payable = \$1,040,250

Unified credit = \$555,800 (\$287,300 under Maine law)

Tentative federal tax =  $1,620,800 - 1,040,250 - 555,800 = \$24,750$  (\$293,250 under Maine law)

Credit for state death tax = (based on  $750,000 - 60,000$ ) = \$20,400

In this scenario, the state estate tax would be \$20,400 and the federal estate tax would be \$24,750.

If taxable estate alone had been the determining level for taxability, this estate would have a federal estate tax liability, but would not be taxable to Maine in 2004.

	Exclusion Amount		Associated Credit	
	Federal	Maine	Federal	Maine
2002	\$1,000,000	\$1,000,000	\$ 345,800	\$ 345,800
2003	1,000,000	700,000	345,800	229,800
2004	1,500,000	850,000	555,800	287,300
2005	1,500,000	950,000	555,800	326,300
2006	2,000,000	1,000,000	780,800	345,800
2007	2,000,000	1,000,000	780,800	345,800
2008	2,000,000	1,000,000	780,800	345,800
2009	3,500,000	1,000,000	1,455,800	345,800