

2016

Important Notice Regarding Illinois Estate Tax and Fact Sheet

For decedents dying prior to 2016, see the Instruction Fact Sheets previously posted on this website covering the specific year of death.

For persons dying in 2016, the Federal exemption for Federal estate tax purposes is \$5,450,000. However, the exemption equivalent for Illinois estate tax purposes is \$4,000,000. Therefore, tentative taxable estates with adjusted taxable gifts between \$4,000,000 and \$5,450,000 will owe an Illinois estate tax without any corresponding Federal estate tax liability. The exemption equivalent is a threshold for purposes of taxation and does not constitute a unified credit to reduce the amount of Illinois estate tax due. In such situations, the estate representative is to prepare and file the Illinois Estate Tax Return, Form 700, together with a Federal Form 706, Federal Estate Tax Return, or any other form containing the same information, even though the Federal return is not required to be filed with the Internal Revenue Service. The Federal Form 706 must include all schedules, appraisals, wills, trusts, attachments, etc. as the Federal Form 706 would have for a 2016 decedent with a tentative taxable estate plus adjusted taxable gifts over \$5,450,000. The Illinois estate tax will be determined using the inter-related calculation for 2016 decedents. The calculator at the Illinois Attorney General's website may be used for this computation. (www.illinoisattorneygeneral.gov) To make the computation, the amounts of the Illinois Tentative Taxable Estate (Line 3, Schedule A or B, Form 700) and the Illinois Tentative Taxable Estate with Adjusted Taxable Gifts (Line 5, Schedule A or B, Form 700) without the State Death Tax Deduction are required for input into the 2016 Estate Tax Calculator to determine the amount of Illinois estate tax due. Please note that the Calculator will not perform the computation of Illinois estate tax due unless amounts are inserted in both of the boxes described above.

When the tentative taxable estate plus adjusted taxable gifts exceeds \$5,450,000 the Illinois Estate Tax Return, Form 700, must include a copy of the Federal Form 706 with all schedules and attachments.

For both resident and non-resident decedents, the tax base will be calculated assuming all assets are located within Illinois. (Line 6, Schedule A or B, Form 700). The percentage of Illinois assets to total assets is then computed with the percentage applied to the tax base for apportionment purposes to determine the amount of Illinois estate tax due.

Illinois QTIP Election (Qualified Terminable Interest Property)

The maximum Illinois QTIP election allowable for decedents dying in 2016 is \$1,450,000.

For persons dying January 1, 2009 and after, the estate may make a QTIP election for Illinois purposes which is in addition to any Federal QTIP election. The Illinois QTIP must be

elected on a timely filed Illinois return by checking the election box (pg. 2, box 4), inserting the dollar amount of the QTIP election, and providing the social security number of the surviving spouse. A list of Illinois QTIP property should be submitted with the return. This may include trust property where an undivided percentage is part of the QTIP, in which case only the numeric percentage of trust property included in the QTIP need be listed. An affidavit by the Trustee as to what is included in the QTIP amount will suffice. The Illinois QTIP election will follow Federal statutes and rules for treatment of such elected property passing to the surviving spouse and inclusion for Illinois purposes on any Illinois Estate Tax Return of the surviving spouse, except as to the application of the Illinois Religious Freedom Protection and Civil Union Act to parties of a civil union for Illinois estate tax purposes.

Estate Tax Treatment of Civil Unions

Wherever the Illinois Estate and Generation-Skipping Transfer Tax Act incorporates provisions of the Internal Revenue Code, those provisions shall be construed in accordance with the Illinois Religious Freedom Protection and Civil Union Act [750 ILCS 75]. Individuals who are parties to a civil union recognized under 750 ILCS 75 occurring on or after June 1, 2011 shall be subject to the same obligations and responsibilities and afforded the same protections and benefits under this Part as apply to spouses in a marriage recognized for Federal estate tax purposes. An Illinois marital deduction, including qualified terminal interest property (QTIP) elections allowable under 35 ILCS 405/2(b-1), is therefore allowable for property passing from a decedent to his or her partner in a civil union recognized under 750 ILCS 75 to the same extent that property transferred to a husband or wife is allowable as a marital deduction, including QTIP elections, under the Internal Revenue Code (26 USC 2044 and 2056). Because civil unions are not recognized for Federal estate tax purposes, civil union partners recognized under 750 ILCS 75 who elect a marital deduction and QTIP elections for Illinois estate tax purposes are required to file the following returns with the Illinois Attorney General:

- a) A Form 700 Illinois Estate and Generation-Skipping Transfer Tax Return, available on the Attorney General's website at (<http://www.illinoisattorneygeneral.gov/publications/estatetax.html>);
- b) A pro forma Federal Form 706 United States Estate (and Generation-Skipping Transfer) Tax Return completed as if the Federal estate tax statutes allowed a marital deduction to civil union partners recognized under 750 ILCS 75 that reflects the marital deductions claimed; and,
- c) For those estates that were required to file a return in accordance with Federal law (26 USC 2001, et seq.), a copy of the Federal Form 706 United States Estate (and Generation-Skipping Transfer) Tax Return actually filed with the Internal Revenue Service.

As used in this Section, the term "qualified terminal interest property" or "QTIP" has the same meaning as prescribed in 26 USC 2056(b)(7)(B).

Computation Examples of Illinois Estate Tax

2016 decedent with an estate of of \$2,000,000	\$0 Illinois Estate Tax \$0 Federal Estate Tax
2016 decedent with an estate of \$3,000,000	\$0 Illinois Estate Tax \$0 Federal Estate Tax
2016 decedent with an estate of \$3,000,100 and adjusted taxable gifts of \$1,000,000	\$28 Illinois Estate Tax \$0 Federal Estate Tax
2016 decedent with an estate of \$4,000,000 (all Illinois property)	\$0 Illinois Estate Tax \$0 Federal Estate Tax
2016 decedent with an estate of \$5,000,000 (all Illinois property)	\$285,714 Illinois Estate Tax \$0 Federal Estate Tax
2016 decedent with an estate of \$5,000,000 with 50% in Illinois and 50% in Florida	\$142,857 Illinois Estate Tax (even though Florida imposes no State Estate Tax) \$0 Federal Estate Tax
2016 decedent with an estate of \$5,450,000, a surviving spouse, and an IL QTIP election	Illinois QTIP \$1,450,000 \$0 Illinois Estate Tax \$0 Federal Estate Tax

Note: The portability and carry-over of the unused Federal exemption to the surviving spouse is inapplicable to the computation and assessment of the Illinois Estate Tax.

The Illinois Attorney General administers the Illinois Estate Tax. The Illinois Estate Tax Return is designated and titled Form 700 and is present at this website. **The original Return must be filed with the Illinois Attorney General's Office, by U.S. mail, courier, or hand delivery.** For Cook, DuPage, Lake and McHenry Counties, the original Return along with a copy of the Federal Return is filed at the Office of the Illinois Attorney General, Revenue Litigation Bureau - Estate Tax Section, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601. For all other counties, the original return along with a copy of the Federal Return is filed at the Office of the Illinois Attorney General, Revenue Litigation Bureau - Estate Tax Section, 500 South Second Street, Springfield, Illinois 62701. **Payment of all taxes, interest and penalties must be paid directly to the Illinois State Treasurer with the "Illinois State Treasurer Estate Tax**

Payment Form” available on the State Treasurer’s website at www.illinoistreasurer.gov/Individuals/Estate_Tax. The tax is due nine (9) months after the date of the decedent’s death. Extensions are based on allowed Federal extensions. Further filing and payment instructions are on the Return.

Pursuant to P.A. 99-0575, there is no requirement that a copy of the Form 700 be filed with the State Treasurer for payments made on or after July 15, 2016.

If the Federal tax is paid in installments, the Illinois tax may be paid in installments. Form 4350a is the computation worksheet for installment payments and is available at this website. Please note that “gross” values are used to determine the percentage subject to deferral; not adjusted values as on the Federal return.

Estates between \$4,000,000 and \$5,450,000 may elect 2032A and alternate valuations, as well as 6166 deferrals, if the estate qualifies for such elections as if the Federal exemption still matched the Illinois exemption. All forms and supporting documentation required with the Federal Form 706 for those elections must be filed with the Illinois Form 700.

Please contact the Estate Tax Section, Illinois Attorney General’s Office with any questions or problems at:

Estate Tax Section
100 West Randolph Street
13th Floor
Chicago, Illinois 60601
Telephone: (312) 814-2491

Estate Tax Section
500 South Second Street
Springfield, Illinois 62701
Telephone: (217) 524-5095