ESTATE TAX

The Internal Revenue Service imposes a tax for all estate which exceed a certain value. The estate tax is a federal tax, which means it applies regardless of where you reside. Each state, however, also has its own laws on separate state estate tax. The federal estate tax consists of an accounting of everything you own or have an interest in at the date of death. For example, cash, financial accounts, securities, real estate, insurance, trusts, annuities, business interests and other assets. The fair market value of the property at your date of death is generally used to determine the value. The total of all of these items is your "Gross Estate."

Once the Gross Estate is calculated, certain deductions are allowed in calculating your "Estate." Deductions may include things such as mortgages, debts, estate administration expenses, property that passes to surviving spouses, and qualified charities.

After the net amount is computed, determined, the value of lifetime taxable gifts (including all gifts made since 1977) is added to this number, and then the estate tax is computed. The tax is then reduced by the available unified credit.

Most simple estates do not require the filing of an estate tax return. A filing is required for estates with combined gross assets and prior taxable gifts exceeding $5,450,000 in 2016. The federal estate tax is always changing, as is shown on the table below.

YEAR	ESTATE TAX EXEMPTION PER PERSON	LIFETIME GIFT TAX EXEMPTION	MAXIMUM GIFT & ESTATE TAX RATE
2008	$2,000,000	$1,000,000	45%
2009	$3,500,000	$1,000,000	45%
2010	$5,000,000 but repealed	$1,000,000	35%
2011	$5,000,000	$5,000,000	35%
2012	$5,120,000	$5,120,000	35%
2013	$5,250,000	$5,250,000	40%
2014	$5,340,000	$5,340,000	40%
2015	$5,430,000	$5,430,000	40%
2016	$5,450,000	$5,450,000	40%

Example: A widow dies with a farm, house, financial accounts, personal property, and investments worth $8,000,000. After the allowable deductions are applied to the widows $8M gross estate, the taxable estate is $7,750,000. The widow dies in 2016, when the estate tax exemption is $5,450,000. The tax rate at this time is 40%. Therefore, the estate tax owed is $7,750,000 - $5,450,000 = $2,300,000 X 40% = $920,000 federal estate tax.

Effective January 1, 2011, estates of decedents survived by a spouse may elect to pass any of the decedent's unused exemption to the surviving spouse. The surviving spouse must timely file this election with the decedent's estate tax return. This is commonly referred to as the portability election.