

Federal Estate Tax

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This publication describes how federal tax laws affect individual estates, including changes resulting from The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 and the American Taxpayer Relief Act of 2012.



MontGuide

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THE FEDERAL ESTATE TAX IS A TAX ON THE

transfer of property at death. The amount of the estate tax depends upon the value of the assets the decedent (the person who died) held at death, taxable transfers during life, how assets are titled, and deductions and credits available. In many cases, the potential estate tax can be reduced significantly by careful planning during life.

This MontGuide presents a general explanation of the federal estate tax provisions following "The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010" and the "American Taxpayer Relief Act of 2012." The value of property that may be transferred free of the federal estate tax during 2017 is \$5.49 million per person (adjusted annually for inflation).

The Gross Estate

Calculation of the federal estate tax on Form 706 begins with the determination of a deceased person's gross estate. The gross estate includes: the fair market value of all real and personal property owned at death, transfers with retained life estate, transfers taking effect at death, revocable transfers, annuities, joint interests, certain powers of appointment, certain proceeds of life insurance, certain transfers occurring within three years of death, and future payments that were owed to the decedent at the time of death. An explanation of each follows.

Real and personal property owned by the deceased person

Property owned by the decedent includes real estate, stocks, bonds, checking and savings accounts, and promissory notes or other evidences of indebtedness held by the decedent. Also included in the gross estate are miscellaneous personal property (furniture, jewelry, personal effects), collections (works of art, coins, stamps, guns), and the decedent's business interests in a partnership, family corporation, or limited liability company.

Transfers with retained life estate

Generally, the value of the gross estate includes property transferred during life by the decedent if he or she retained possession, enjoyment of, or reserved certain rights or interests in the property. However, if the transfer was made for full consideration in money or money's worth at the time of the transfer, the value will not be included in the decedent's gross estate.

Interests that an individual could reserve for life include the use, possession, or other enjoyment of the transferred property; the right to receive income; or the right to designate persons who may receive income from the transferred property. Any one of these provisions will bring the property back into the gross estate for federal estate tax purposes. Also, the gross estate includes the full date-of-death value of closely-held corporate stock if a decedent transferred the stock but retained voting rights for the transferred stock. The value of property that a decedent transferred, but retained the right to income or retained the right to live on or use the property is also included in the gross estate for federal estate tax purposes. This is true even though the property is validly transferred according to Montana law.

Example A: Jack deeded his ranch to his son in 2013. However, Jack continued to live on the ranch, made management decisions, and received income from the operation. In this case, the Internal Revenue Code provides that Jack had retained a life interest in the property regardless of how the legal paperwork was written up. The value of the ranch at the time of Jack's death in 2015 was included as a part of his gross estate.

Transfers taking effect at death (reversionary interests)

If a transfer was not made for full consideration in money or money's worth (reversionary interests), the gross estate includes the value of property interests transferred at death if all of the following conditions exist:

1. Only by surviving the decedent could the beneficiaries obtain possession or enjoyment of the property transferred.
2. A right to have the property returned to oneself (reversionary interest) was retained by the decedent.
3. The value of the reversionary interest immediately before the decedent's death exceeded 5 percent of the value of the entire property. The value of the reversionary interest is based on actuarial tables. In other words, the value of the reversion depends on the likelihood that the person establishing the trust will survive his or her beneficiaries.

Example B: John transferred property to a trust with the income payable to his wife for life and the remainder payable to himself or, if he is not living at his wife's death, to their child. John held a reversionary interest by the terms of the trust. He had expressly retained the right to have the property returned to him in the event that he survived his wife, a right he possessed up to the moment of death. If the value of the reversionary interest was greater than 5 percent of the trust value, the value of the trust will be included in John's gross estate.

Revocable transfers

The gross estate includes the value of property interests transferred by a decedent, unless the transfer was made for full consideration in money or money's worth, if the enjoyment of the property transferred was subject, on the date of death, to any power of the decedent to alter, amend, revoke or terminate the transfer.

One example of a revocable transfer is a revocable living trust. While one purpose of a revocable living trust may be to reduce or eliminate probate expenses, the assets in a revocable living trust are still included in the gross estate and subject to federal estate taxes. The power to change beneficiaries and the power to increase any beneficiary's enjoyment of the property are other examples of revocable transfers.

Annuities

The gross estate includes the value of an annuity or other payment that a beneficiary is due to receive because he or she survives the decedent. The amount included is proportionate to the purchase price contributed by the decedent or by the decedent's employer relative to the total purchase price of the annuity. A single life annuity contract that provides periodic payments to the decedent for life and ceases at his/her death is not included in the gross estate for federal estate tax computation purposes.

Joint tenancy with right of survivorship interests

If property is titled by a husband and wife as joint tenants with right of survivorship, then the estate of the first spouse to die includes one-half of the value of property regardless of which spouse paid for purchase of the property. This rule applies as long as the decedent and the surviving spouse are the only joint tenants on the property title.

Example C: A husband purchased a farm for \$200,000 and titled it in joint tenancy with right of survivorship with his wife. When the husband died in 2014, the farm had increased in value to \$6 million. Because the farm was in joint tenancy between husband and wife only, one-half the value of the farm (\$3 million) was included in the husband's gross estate for determining the federal estate tax.

When property is jointly owned by a decedent and someone other than the decedent's spouse, different rules apply. The entire value is included if the first joint tenant to die furnished all of the funds for the purchase. A prorated share is included if each owner contributed to the cost of the acquisition of the jointly held property. For this reason, owners need records to establish who contributed to the acquisition and improvement of the property and in what amounts.

Example D: A father placed his ranch valued at \$6 million in joint tenancy with right of survivorship with his son. He had made no other taxable gifts during his lifetime and his other assets were of limited value. Upon the father's death in 2014, the son could not prove he contributed funds for the purchase price. As a result, the entire value of the ranch (\$6 million) was included in the father's gross estate for determining the federal estate tax.

An exception is allowed, if the personal representative of the estate (the person who assists with the settlement of an estate; formerly called "executor" or "administrator") can prove that the surviving non-spouse joint owner provided part or all of the money when the property was acquired or when the mortgage was paid off.

Example E: A father and his son bought a farm for \$300,000. Each provided half of the funds for the purchase. When the father died in 2015, the farm was valued at \$6 million. The amount included in the father's gross estate for federal estate tax purposes was half of the value (\$3 million) because he had contributed half of the original purchase price.

The burden of proof is on the decedent's estate to prove the amount and source of contribution on the part of the surviving joint owner or owners, unless the surviving joint owner is a spouse. Records are needed to document when the property was acquired, what consideration was furnished and by whom. In the absence of such records, the full value of the property will be included in the value of the estate at the death of a joint owner.

Powers of appointment

The gross estate includes the value of property interests over which the decedent had a general power of appointment at death. A power of appointment is the power to determine who will own or enjoy a property or an interest in the property, at present or in the future. In essence, if the decedent retained the "right to direct" the property, the value will be included in the gross estate.

If the holder can appoint property to himself, his creditors, his estate, or his estate's creditors he has a general power of appointment. The unlimited power to consume, invade, or appropriate either income or principal, or both for the benefit of the decedent prior to his/her death, will also be considered a general power of appointment

Proceeds of life insurance

The proceeds from a life insurance policy on the decedent are included in the gross estate, if any one of the following conditions exists:

- The proceeds are receivable by the estate.
- The proceeds are receivable by another for the benefit of the estate or subject to a legal obligation to benefit the estate.
- The decedent possessed incidents of ownership in the policy (such as the power to change beneficiaries, to revoke an assignment, to pledge the policy for a loan, or to surrender or cancel the policy).

Example F: A mother owned a \$500,000 life insurance policy and made the annual premium payments. She named her son as the primary beneficiary. When she died, the \$500,000 passed to her son, but the value of proceeds (\$500,000) were included in her gross estate.

Example G: In 2006, a mother transferred ownership of her \$1 million life insurance policy to her son, who then made the premium payments. Her son remained as the beneficiary. When the mother died in 2014, the \$1 million in life insurance proceeds was not included in her estate because she was not the owner of the policy, had not made premium payments after the transfer to the son, and she lived more than three years after the transfer to her son (see below).

Insurance on the life of another, owned by the decedent at his or her death, is also included in the gross estate. The amount included is the replacement value of the policy, which can be obtained from the life insurance company.

Transactions within three years of death

Generally, the value of gifts (other than gifts of life insurance) made by a decedent is not included in the gross estate (although lifetime taxable gifts can reduce the amount of the applicable exclusion available to the estate). However, interests in property otherwise included in the gross estate under the so-called "strings attached" provisions (or that would have been included had the interest been retained by the decedent) are included in the gross estate if transferred within three years of death. In addition, any gift tax paid by the decedent or his or her spouse within three years of death will be included in the gross estate for federal estate tax computation purposes.

Example H: Assume that a father owned a term life insurance policy with proceeds of \$500,000 payable at his death. In 2013, he transferred ownership to his daughter, who is also the beneficiary. She is now responsible for paying the premiums. No other taxable gifts had been made by the father in prior years. In the year 2014, the father dies owning ranch land valued at \$6 million. The life insurance proceeds (\$500,000) pass directly to his daughter. However, the value is included in the father's gross estate for federal estate tax computation purposes because he did not live three years after transferring ownership of the policy to his daughter. The father's gross estate includes the life insurance policy proceeds (\$500,000).

Example I: If the father had lived at least three years after transferring ownership of the policy to his daughter, the \$500,000 in proceeds would not be included in his taxable estate.

Adjusted taxable gifts

Total taxable gifts *beyond* the annual exclusion (currently \$14,000 for each person in 2017) made by the decedent after December 31, 1976 are also included as adjusted taxable gifts on the federal estate tax return (Form 706). For more information, see the MSU Extension Montguide, *Giftng: A Property Transfer Tool of Estate Planning* ([MT199105HR](#)).

Valuation of Gross Estate

Generally, the value of the decedent's property interest for federal estate tax purposes is the *fair market value* at the date of death. The IRS defines the fair market value as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of all relevant facts.

The personal representative may elect an *alternate valuation* of the assets as of six months after the decedent's death. If the alternate valuation is elected, then *all* assets must be valued as of the alternate date, or as of the date of their distribution, sale, exchange, or other disposition, if any of those events occurs after a decedent's date of death and before the alternate valuation date. The alternate valuation can be elected only if the valuation reduces the size of the gross estate and also reduces the amount of federal estate tax due.

Basis of property

All property (real estate, stocks, and bonds) that a person owns has a basis for tax purposes. For example, a home purchased years ago for \$47,000 has a basis of \$47,000 even though its current fair market value is \$250,000.

Property received by a donee as a gift from a donor during life has a *carry-over basis* value. This means that the basis that passes to the donee is the same as it was for the donor.

Example J: A father gives land to his daughter that has a fair market value of \$3 million. The father paid \$100,000 for the land. Because the transfer is a “gift,” her father’s \$100,000 basis in the property *carries over* to the daughter. If she sells the property for \$3 million, she is responsible for the income tax on the capital gain which is the difference between the basis (\$100,000) and the fair market value (\$3 million). Thus, after the sale of the land the daughter would owe a federal income tax of \$435,000 on the \$2.9 million capital gain (assuming a long-term capital gains tax rate of 15 percent).

Property that is received by a beneficiary from a decedent has a *stepped-up* basis. This means the basis of the property is stepped-up to the fair market value at the date of death of the owner.

Example K: If the property in Example J had passed to the daughter as a result of her father’s death in 2014, she would have received a stepped-up basis on the property. This means the basis in the property would be stepped-up from the father’s \$100,000 basis to \$3 million, the value at her father’s death. If the daughter sold the property for \$3 million after her father’s death, there would be no income tax on the capital gain because she sold the property at the stepped-up basis of \$3 million.

Special use valuation on real property

If the personal representative has an agreement signed by those receiving an interest in real property to assume personal liability for recapture of federal estate taxes, he or she may elect to value qualified real property as a farm or ranch or as it is used in the closely held business, rather than the fair market value.

The special use valuation cannot reduce the decedent’s gross estate by more than \$1,120,000 in 2017 (indexed for inflation annually). For property to qualify for *special use valuation*, certain requirements must be met.

- The land must have been used as a farm for 5 years during the 8-year period ending with the decedent’s death.
- The decedent or a member of the decedent’s family must have materially participated in the farm business.
- The land must comprise at least 25 percent of the gross estate.
- The land must pass to qualified heirs (generally a lineal descendant of the decedent, a spouse of the lineal descendant or ancestor of decedent).
- The land and other farm or business assets must comprise at least 50 percent of the gross estate.

All or a portion of the federal estate tax benefits obtained under the special use valuation provision must be repaid if the property is sold to a nonfamily member or if the property ceases to be used for farming within 10 years following the decedent’s death. The land cannot be cash rented because this use violates the special use value rules.

Allowable Expenses and Deductions

After the appropriate values are established for the gross estate the amount is reduced by subtracting the allowable expenses and deductions. *Allowable expenses* include such items as: administration expenses, funeral and medical claims against the estate, obligations, and casualty and theft losses. *Allowable deductions* include the marital deduction and the charitable deduction.

Allowable expenses

Administration Expenses. Deductible administration expenses include compensation to the personal representative who is responsible for settling the estate, fees to the attorney for handling legal aspects of the estate, and miscellaneous expenses such as accountant’s fees, court costs, expenses of administering property, and expenses for selling estate property (if a sale is necessary to settle the estate). These deductions may be taken either on the federal estate tax return or the fiduciary income tax return, but not on both, and a timely election is required if taken on the fiduciary federal income tax return.

Medical Expenses. Medical expenses for the decedent are fully deductible on the federal estate tax return if they are not taken as a deduction on the decedent’s income tax return.

Funeral Expenses. Funeral expenses for the decedent are fully deductible on the federal estate tax return.

Claims Against the Estate. All debts of the decedent, such as property taxes accrued before death, unpaid income taxes on income received by the decedent during life, and unpaid gift taxes on gifts made by the decedent during life are deductible from the gross estate.

Obligations. Unpaid mortgages and other charges against property, including the interest accrued to the date of the decedent’s death, are deductible if the value of the property is included in the gross estate without reduction for mortgage or other indebtedness.

Casualty and Theft Loss. Deductions are allowed for losses incurred during the settlement of the estate that arise from theft or casualties, such as storms or fires. However the deduction allowed is only to the extent that the losses are not compensated for by insurance and if they are not deducted on the estate’s income tax return.

Allowable deductions

Charitable deduction. An unlimited deduction is allowed for the value of property in the decedent's gross estate that was transferred by a will, a trust, a payable on death designation, a transfer of death registration, or a beneficiary designation to or for the use of a "qualified" 501(c)(3) charitable, religious, educational or governmental organization.

Example L: In his will, a 4-H leader bequeathed land valued at \$2 million to the Montana 4-H Foundation. The amount would qualify as a charitable deduction on the federal estate tax return because the Montana 4-H Foundation is a 501(c)(3) organization.

Marital deduction. Generally, the value of unlimited amounts of property can be transferred at death to a U. S. citizen spouse without a federal estate tax being due. If the spouse is not a U.S. citizen there is a limit to the amount of the marital deduction.

Federal Estate Tax Rate

After allowable expenses and deductions are subtracted from the gross estate, the federal estate tax rates are applied to the remaining balance (taxable estate). The federal estate tax is \$345,800 on the first \$1,000,000, and 40 percent of the amount over \$1,000,000 (see Table 1). The result is termed *tentative tax*.

Example M: A grandfather has an estate of \$6 million that he bequeathed to his grandson. The tax on the first \$1,000,000 is \$345,800. The tax on the balance of \$5 million is \$2 million (\$5 million x 40% = \$2 million). The total tentative tax before credits are applied against the estate tax is \$2,345,800 (\$345,800 + \$2,000,000 = \$2,345,800).

TABLE 1. Federal Gift and Estate Tax Rates 2017

| Column 1 at least | Column 2 but less than | Tax on Column 1 amount | Rate on Excess Over Column 1 |
|----------------------|------------------------|------------------------|------------------------------|
| \$ 0 | \$ 10,000 | \$ 0 | 18% |
| 10,000 | 20,000 | 1,800 | 20% |
| 20,000 | 40,000 | 3,800 | 22% |
| 40,000 | 60,000 | 8,200 | 24% |
| 60,000 | 80,000 | 13,000 | 26% |
| 80,000 | 100,000 | 18,200 | 28% |
| 100,000 | 150,000 | 23,800 | 30% |
| 150,000 | 250,000 | 38,800 | 32% |
| 250,000 | 500,000 | 70,800 | 34% |
| 500,000 | 750,000 | 155,800 | 37% |
| 750,000 | 1,000,000 | 248,300 | 39% |
| \$1,000,000 and over | | 345,800 | 40% |

Credits Deducted from the "Tentative" Estate Tax

The following credits are deducted from the tentative estate tax: the unified credit (also termed applicable credit amount) and credit for tax on prior transfers.

The applicable credits and applicable exclusions for both the federal estate tax and federal gift tax are listed in Table 2. For deaths in 2017, a Federal Estate Tax Return (Form 706) is required only when the value of the taxable estate and the value of the prior taxable gifts total more than \$5.49 million in 2017 (adjusted annually for inflation).

Unified Applicable Credit. The applicable credit is a credit against the **tentative** federal estate tax or the federal gift tax due. The applicable credit in 2017 is \$2,141,800 (see Table 2).

TABLE 2. Federal Gift and Estate Exclusions and Credits per person, 2001 - 2017

| Year of Death | Applicable Exclusion | Applicable Credit |
|---------------|-------------------------|-------------------|
| 2001 | \$ 675,000 | \$ 220,550 |
| 2002 - 2003 | 1,000,000 | 345,800 |
| 2004 - 2005 | 1,500,000 | 555,800 |
| 2006 - 2008 | 2,000,000 | 780,000 |
| 2009 | 3,500,000 | 1,455,800 |
| 2010 | option to use 5,000,000 | N/A |
| 2011 | 5,000,000 | 1,730,800 |
| 2012 | 5,120,000 | 1,772,800 |
| 2013 | 5,250,000 | 2,045,800 |
| 2014 | 5,340,000 | 2,081,800 |
| 2015 | 5,430,000 | 2,117,800 |
| 2016 | 5,450,000 | 2,125,800 |
| 2017 | 5,490,000 | 2,141,800 |

The applicable credit is applied against the gift or estate taxes otherwise payable. The actual value of an estate that may pass without a federal estate tax due during 2017 is \$5.49 million. In other words, during 2017, the \$2,141,800 applicable credit is equal to \$5.49 million per person in assets that can be transferred without being taxed at death. The same amount can be transferred during life without a gift tax. There is only one applicable credit, not one for federal estate transfers and another one for federal gift transfers.

Example N: George made a gift to his son of shares in his ranch corporation valued at \$1 million in 2002. George did not have to pay a gift tax because the amount was equal to the applicable gift tax exclusion of \$1 million in 2002. Based on the law in 2002, the gift amount translated to an applicable credit of \$345,800 (see Table 1).

Assume George died in 2013 with remaining stock valued at \$2 million. In 2013 the applicable credit was \$2,045,800 but because George already used \$345,800 of his available credit in 2002, his estate had \$1,700,000 of his applicable credit remaining (\$2,045,800 - \$345,800 = \$1,700,000).

Credit for tax on prior transfers. Partial credit is allowed against the tax for federal estate taxes paid on the transfer of property to the present decedent from a decedent who died within ten years before, or within two years after, the present decedent's death.

Portability Provision of the Applicable Credit for Married Couples. By taking advantage of the *portability provision* of the deceased spouse's unused exclusion, federal estate taxes can be minimized at the death of the second spouse. With this portability provision, married couples can pass \$10.98 million (\$5.49 million + \$5.49 million) free of the federal estate tax in 2017 (adjusted annually for inflation).

The total exemption for a surviving spouse is the basic exclusion amount of \$5.49 million in 2017 plus any of the deceased's spousal unused exclusion amount.

Example O: Assume a father has a taxable estate valued at \$10.98 million in 2017 and that the mother has zero assets. They want to avoid federal estate taxes on the ranch they want to eventually pass to their son.

If the husband leaves his estate all to his wife, there is no estate tax at his death, because the total amount qualifies for the unlimited marital deduction. However, the surviving spouse must take advantage of the portability provision of the applicable credit to reduce the federal estate tax to zero.

For a surviving spouse to take advantage of the portability provision section, the personal representative for the estate of the first deceased spouse is required to file IRS Form 706 (estate tax return) within 9 months to establish the amount of the unused exclusion and elect on the return to allow the surviving spouse to use it. This is an irrevocable election.

Example P: Assume that in Example O the wife takes advantage of the unlimited marital deduction and the full \$10.98 million passes to her. The personal representative will need to file the federal estate tax return (Form 706) within nine months of the husband's death to establish the unused exclusion amount of \$5.49 million and applicable credit of \$2,141,800 from the estate of the husband.

There is no estate tax at the death of the husband because all \$10.98 million passed to the wife utilizing the spousal unlimited marital deduction. If the wife dies in 2017 there is no federal estate tax on the \$10.98 million estate because of the unused exclusion of \$5.49 million from the husband's estate using the portability provision. The result is that there is no federal estate tax at the death of both parents (Chart 1).

However, if the surviving spouse remarries he or she loses the unused deceased spousal exclusion amount of the deceased spouse if he or she also survives the new spouse. The surviving spouse may only use the deceased spousal exclusion amount of the last deceased spouse.

CHART 1. Portability Provision for Married Couples

| | Dad's Estate | Mom's Estate |
|-------------------|-------------------------|---------------|
| Estate Value | \$10,980,000 | \$10,980,000 |
| Marital Deduction | – \$10,980,000 | – \$0 |
| Taxable Estate | \$0 | \$10,980,000 |
| Tentative Tax | \$0 | \$ 4, 283,600 |
| | Applicable Credit (mom) | \$2,141,800 |
| | Applicable Credit (dad) | – \$2,141,800 |
| Estate Tax | \$0 | \$0 |

Filing of estate tax return

If the value of the gross estate of a decedent and the value of the taxable gift are more than the applicable exclusion amount (\$5.49 million in 2017 plus taxable gifts made during life), the federal estate tax return (Form 706), is due nine months after the date of death. A modified version of the return is provided in Chart 2 (page 7).

A reasonable extension of time (not to exceed six months) to file the estate tax return, or related statements or documents, may be granted if it is impossible or impractical to complete the return within the normal nine-month period beginning at the decedent's date of death.

Extension of time to pay the tax

An extension of time to file the return is not an extension of time to pay the estate tax.

One-year extension. The personal representative may request an extension of time to pay the estate tax. A period not to exceed 12 months from the date fixed for the payment may be granted by the IRS when there is reasonable cause. However, interest accrues from the original due date.

Reasonable cause extension. The personal representative, when showing reasonable cause, may be granted an extension of time for paying taxes for up to 10 years from the due date of the original payment of the tax liability. However, interest accrues from the original due date.

5 year deferral; 10 year installments. The estate tax attributable to a closely held business can be paid in installments if the value of the decedent's interest in the closely held business exceeds 35 percent of the decedent's gross estate. The estate can elect to defer payment of estate taxes that are due on the proportional value of the business. The election can delay tax payments by up to 5 years and then the estate can pay the taxes in up to 10 equal installments after the deferral.

The availability of installment payments for the federal estate tax for the closely held business is available for a business with up to 45 shareholders or partners. Qualified lending and finance business interests are also eligible. The tax on these interests must be paid in five installments of principal and interest.

Estate planning goals

Protecting children from a prior marriage.

Assume that a father with two children from a prior marriage wants to provide not only for his wife, but also leave a legacy for his children. He wants them ultimately to inherit the land that has been in the family for several generations. His concern is that if he left the land to his wife she could remarry and the land could possibly pass out of the family. He contacted his attorney who recommended the following. Instead of leaving the land valued at \$5.49 million outright to his wife, it would instead be placed in a qualified terminable interest property trust (QTIP).

The terms of the QTIP trust would require all income to be distributed to the wife for life, with the assets to pass to the husband's children at the death of the wife. With an appropriate election by the personal representative, the QTIP trust will qualify for the marital deduction at the death of the husband. While the property is subject to the federal estate tax at the death of the wife, there is no tax because the amount is equal to the wife's applicable exclusion of \$5.49 million in 2017. Because of the terms of the QTIP trust, the husband will be assured that his assets will pass to his children after the death of his present wife.

Another alternative is that the father could create a bypass or credit shelter trust to hold the assets equal to the father's applicable exclusion. The assets in the credit shelter trust could pass directly to his children upon his death.

The law is very, very complex in this area. Contact an attorney or a certified public accountant for a full discussion of the factors to be considered for achieving family objectives and the minimization of federal estate taxes.

Changing Regulations

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 and the American Taxpayer Relief Act of 2012 made changes in the federal estate tax statutes. While this MontGuide discusses some of the major changes, you are encouraged to consult competent professionals such as an attorney or certified public accountant to keep abreast of regulations as they develop. Also, consult these professionals for estate tax planning for your individual situation

Further Information

The Internal Revenue Service provides in-depth publications on Federal Estate and Gift Taxation. They can be ordered from the IRS (1-800-829-3676) or downloaded from the web at www.irs.gov.

Additional information about major changes in the regulations on gifting are explained in *Gifts: A Property Transfer Tool of Estate Planning (MT199105HR)*. This MontGuide is available free from your local MSU Extension Office, or online at www.montana.edu/estateplanning and click on Estate Planning Publications.

CHART 2. Example of how the federal estate tax calculation works using the applicable credit amount for 2017:

| | | | |
|----|---|--------------|----------|
| A. | Value of Gross Estate | | \$ _____ |
| B. | Subtract | | |
| | Claims Against Estate | _____ | |
| | Administrative Expenses (Probate Fees) | _____ | |
| | Funeral Expenses | _____ | |
| | Marital Deduction for Surviving Spouse | _____ | |
| | Charitable Deductions | _____ | |
| | Total Deductions | _____ | - _____ |
| C. | Taxable Estate | | \$ _____ |
| D. | Add: All Post 1976 Adjusted Taxable Gifts | | + _____ |
| E. | Adjusted Taxable Estate | | \$ _____ |
| F. | Calculate Tentative Tax on "Adjusted Taxable Estate" Amount | | \$ _____ |
| G. | Subtract: Total Gift Taxes Payable on Post-1976 Gifts | | - _____ |
| H. | Gross Estate Tax Payable Before Credits are Applied | | \$ _____ |
| I. | Subtract: | | |
| | Estate Tax Applicable Credit (2017) | \$ 2,141,800 | |
| | Credit for Foreign Death Taxes | _____ | |
| | Credit for Tax on Prior Transfers | _____ | |
| | Total Credits | | - _____ |
| J. | Net Estate Tax | | \$ _____ |
| K. | Add: Generation Skipping Transfer Tax (if applicable) | | + _____ |
| L. | Federal Estate Tax Payable | | \$ _____ |

Acknowledgments

Representatives from the following reviewed this MontGuide and recommend its reading by all Montanans who are in the process of estate planning.

- Business, Estates, Trusts, Tax and Real Property Section – State Bar of Montana
- Federal Taxation Committee – Montana Society of Certified Public Accountants

Disclaimer

This publication is not a substitute for legal advice. Rather it is designed to help inform persons about the basic provisions of the federal estate tax law and to create an awareness of the need for planning if a goal is to minimize the tax. There are numerous exceptions and conditions to some of the concepts discussed. Future changes in laws cannot be predicted and statements in the MontGuide are based solely on the laws in force on the date of publication.



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