SECTION 954

Resident's New York gross estate

Tax (TAX) CHAPTER 60, ARTICLE 26, PART 1

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§ 954. Resident's New York gross estate. (a) General.-- The New York gross estate of a deceased resident means his or her federal gross estate as defined in the internal revenue code (whether or not a federal estate tax return is required to be filed) modified as follows:

(1) Reduced by the value of real or tangible personal property having an actual situs outside New York state.

(2) Increased by the amount determined under section nine hundred fifty-seven of this part (relating to limited powers of appointment created prior to September first, nineteen hundred thirty).

(3) Increased by the amount of any taxable gift under section 2503 of the internal revenue code not otherwise included in the decedent's federal gross estate, made during the three year period ending on the decedent's date of death, but not including any gift made: (A) when the decedent was not a resident of New York state; or (B) before April first, two thousand fourteen; or (C) between January first, two thousand nineteen and January fifteenth, two thousand nineteen; or (D) that is real or tangible personal property having an actual situs outside New York state at the time the gift was made. Provided, however that this paragraph shall not apply to the estate of a decedent dying on or after January first, two thousand thirty-two. The amount by which the total tax imposed under this article exceeds the total tax that would have been imposed under this article if this paragraph did not apply shall be treated as an obligation of the decedent as of the decedent's death that is subject to the provisions of this article (but which shall not be deductible for purposes of this article).

(4) Increased by the value of any property not otherwise already included in the decedent's federal gross estate in which the decedent had a qualifying income interest for life if a deduction was allowed on the return of the tax imposed by this article with respect to the transfer of such property to the decedent by reason of the application of paragraph (7) of subsection (b) of section 2056 of the internal revenue code, as made applicable to the tax imposed by this article by section nine hundred ninety-nine-a of this article, whether or not a federal estate tax return was required to be filed by the estate of the transferring spouse.

(b) Valuation. -- (1) The New York gross estate shall be valued as of the time of the decedent's death, except that if a federal estate tax return is filed and the alternate valuation under section 2032 of the internal revenue code is elected for federal estate tax purposes, the New York gross estate shall be valued as of the applicable federal valuation date or dates. Any real property qualified under section two thousand thirty-two-A of the internal revenue code shall have the same value for purposes of the New York gross estate as it has for federal estate tax purposes.

(2) If such alternate valuation could have been elected pursuant to paragraph one of this subsection, but for the absence of an estate sufficient to require the filing of a federal return, the New York gross estate may, upon the election of the executor, be valued as of the federal valuation date or dates which would have applied if a federal return had been filed. However, no election may be made under this paragraph unless such election will decrease the value of the New York gross estate and the amount of tax imposed by this article (reduced by credits allowable against such tax). Any election made under this paragraph shall be irrevocable. The election allowed by this paragraph shall be made no later than the date prescribed for the filing of the return under this article (including extensions) or any time thereafter as the commissioner may prescribe.

(c) Cross references.-- (1) For provisions of the internal revenue code defining the federal gross estate, see:

Sec. 2031. Definition of gross estate.

Sec. 2032. Alternate valuation.

Sec. 2032A. Valuation of certain farm, etc., real property.

Sec. 2033. Property in which the decedent had an interest.

Sec. 2034. Dower or curtesy interest.

Sec. 2035. Adjustments for gifts made within three years of decedent's death.

Sec. 2036. Transfers with retained life estate.

Sec. 2037. Transfers taking effect at death.

Sec. 2038. Revocable transfers.

Sec. 2039. Annuities.

Sec. 2040. Joint interests.

Sec. 2041. Powers of appointment.

Sec. 2042. Proceeds of life insurance.

Sec. 2043. Transfers for insufficient consideration.

Sec. 2044. Certain property for which marital deduction was previously allowed.

Sec. 2045. Prior interests.

Sec. 2046. Disclaimers.

(2) For provisions of the internal revenue code which, except to the extent they are inconsistent with the provisions of this article, are pertinent to the computation of taxable gifts and the tax under this article, see:

Sec. 2503. Taxable gifts.

Sec. 2511. Transfers in general.

Sec. 2512. Valuation of gifts.

Sec. 2513. Gift by husband or wife to third party.

Sec. 2514. Powers of appointment.

Sec. 2516. Certain property settlements.

Sec. 2518. Disclaimers.

Sec. 2519. Dispositions of certain life estates.

Sec. 2522. Charitable and similar gifts.

Sec. 2523. Gift to spouse.

Sec. 2524. Extent of deductions.

Sec. 2701. Special valuation rules in case of transfers of certain interests in corporations or partnerships.

Sec. 2702. Special valuation rules in case of transfers of interests in trusts.

Sec. 2703. Certain rights and restrictions disregarded.

Sec. 2704. Treatment of certain lapsing rights and restrictions.

Sec. 7872. Treatment of loans with below-market interest rates.

(3) For effect of federal estate tax determinations, see section nine hundred sixty-one of this article.