



# Application for Deferred Payment of Estate Tax

When the estate consists largely of an interest in a closely held business

For the estate of a decedent whose date of death is after May 25, 1990, and on or before December 31, 2011

Attach this completed form and supporting documents to the applicable Form ET-706, used for dates of death on or before December 31, 2011, and mail to the address shown in Form ET-706-I.

Decedent's last name		First name		Middle initial	Social Security number (SSN)	
Estate tax return due date	Date 2% interest rate begins	Number of annual installments elected	Due date of first installment of tax plus interest		Date of death	

Are you electing to make installment payments on a deficiency? ..... Yes  No  ..... If Yes, see instructions on back.

1 Value of decedent's interest in a closely held business .....	1.			
2 Federal adjusted gross estate (Form ET-706, used for dates of death on or before December 31, 2011, Schedule A, line 20 minus the total from federal Form 706 Part 5, lines 17, 18, and 19) (see instructions).....	2.			
3 Percentage ratio (see instructions; round the result to the fourth decimal place) .....	3.		%	
4 Net estate tax payable (from Form ET-706, used for dates of death on or before December 31, 2011, line 8, Form ET-115, line 23) .....	4.			
5 Maximum amount of estate tax that may be, or could have been, deferred (multiply line 4 by the percent on line 3) .....	5.			
6 Amount of line 5 you elect to pay in installments (for deficiencies, see instructions) .....	6.			
7 Divide line 6 by the number of annual installments you elected above, not to exceed 10 .....	7.			
8 Amount of tax not deferred, including the part of a deficiency attributable to installments already due (see instructions) .....	8.			
9 Net prior tax payments to New York State (attach a schedule of dates and amounts; see instructions) .....	9.			
10 Amount due with this application, if any (subtract line 9 from line 8). If line 9 is greater than line 8, see instructions.....	10.			

Make check or money order payable in U.S. funds to **Commissioner of Taxation and Finance** and attach this application to the applicable Form ET-706.

Executor's last name	First name	MI	Signature of executor		Date
Firm's name if preparer other than executor (or yours if self-employed)			Signature of preparer other than executor		Date
Address of preparer		City	State	ZIP code	Email address of preparer
Firm's employer identification number			Preparer's PTIN or SSN		Preparer's NYTPRIN or Excl. code

**For Department use only**

<input type="checkbox"/> Application approved for \$ _____ . Payable in _____ annual installments of \$ _____ , plus interest.	
<input type="checkbox"/> Application denied for the following reason: _____	
Signature of reviewer	Date

## Instructions

### General information

An executor of the estate must sign this form (see *Executor information* on Form ET-706-I, *Instructions for Form ET-706*) and attach it to Form ET-706, *New York State Estate Tax Return*, that is used for dates of death on or before December 31, 2011, to apply for an extension of time to pay the portion of the New York State estate tax applicable to the value of the decedent's interest in a closely held business included in the gross estate. Also, you must mark an **X** in the appropriate Yes box on Form ET-706, page 1, indicating the estate intends to make the election.

If the decedent had interests in two or more qualifying closely held businesses, they will be treated as an interest in one business for calculation purposes.

Along with Form ET-415, the estate must submit a statement identifying which properties reported on the estate tax return constitute the closely held business, and stating all facts forming the basis that the estate qualifies for the deferred payment of the estate tax.

Attach the completed Form ET-415 and supporting documents to Form ET-706. If you fail to attach Form ET-415, mail it, together with any supporting documents, to the mailing address shown in Form ET-706-I.

**Election to defer payment of the estate tax attributable to a closely held business** – The executor may elect to pay that portion of the New York State estate tax attributable to the decedent's interest in a closely held business in annual installments of not less than two, and not more than ten, equal payments.

The estate is required to promptly pay the non-deferred portion of the New York State estate tax and applicable accrued penalty and interest, unless it has been granted an extension of time to pay that portion of the tax. The deferred payment plan will be cancelled if the non-deferred portion and any applicable penalty and interest are not paid on time.

**Qualifications** – All of the following conditions must be met:

1. The decedent's interest in a closely held business must be more than 35% of the federal adjusted gross estate (see instructions for line 2, below).
2. The 35% requirement must also be met by computing the percentage ratio by adding the value of any gifts made by the decedent within three years of death to the federal adjusted gross estate based on Internal Revenue Code (IRC) section 2035(c)(2).
3. If the estate is required to file a federal estate tax return, the estate must make the election for the federal estate tax.

**Time limit for making the election** – The election must be made within **nine months** after the date of death, or fifteen months after the date of death when the estate has been granted an extension of time to file the estate tax return. (See Form ET-133, *Application for Extension of Time to File and/or Pay Estate Tax*.)

For a deficiency, the election to pay the amount of tax attributable to the closely held business in installments must be made within **60 days** after the issuance of a notice and demand for payment.

**Estate tax return due date** – Enter the date that is nine months after the date of death.

**Time for payment** – Under the installment method, the executor may elect to defer payment of the qualified estate tax, but not interest. Interest on the unpaid portion of the tax is not deferred and must be paid annually. The first installment of the tax due may be deferred for up to five years from the original payment due date. After the first installment of tax is paid, you must pay the remaining installments annually by the date one year after the due date of the preceding installment. There can be no more than 10 installment payments in total. Interest must be paid as part of each installment payment of the tax. (see *Exceptions* below).

**Acceleration of payments** – If the estate fails to make payments of tax or interest within six months of the due date, the Tax Department may terminate the right to make installment payments and force an acceleration of payment of the tax upon notice and demand.

Generally, if any portion of the interest in the closely held business which qualifies for installment payments is distributed, sold, exchanged, or otherwise disposed of, or money and other property attributable to such an interest is withdrawn, and the aggregate of these events equals or exceeds 50% of the value of the interest, then the right to make installment payments will be terminated, and the unpaid portion of the tax will be due upon notice and demand.

**Interest rates on the deferred tax** – Interest accrues on the deferred tax from the date that is nine months after the date of death. However, a reduced rate of interest is imposed on the lesser of \$54,000, or the tax attributable to the decedent's interest in a closely held business (see *Exceptions* below). For dates of death on or after January 1, 1998, the reduced rate of interest is 2%.

The deferred tax that exceeds \$54,000 is not eligible for a reduced rate of interest, and the prevailing rate of interest is charged.

**Exceptions** – The following exceptions apply to the amount eligible for a deferral, due date for payment of tax, and reduced rate of interest:

1. In the case of a deficiency, only the amount of tax attributable to the closely held business is eligible for deferral.
2. If the executor makes the election provided in IRC section 6166(b)(8) to treat holding company stock owned by the decedent as business company stock to meet the 35% requirement, the five-year deferral for payment of the tax, and the 2% interest rate, both mentioned above, will not apply. In this case, the first installment payment of tax would be due on the date that is nine months after the date of death.

### Line instructions

**Line 1** – Enter the market value **or** special use value of the decedent's interest in the closely held business. If the estate elected to use the alternate valuation date, use the appropriate value as of that date.

**Line 2** – The Federal adjusted gross estate is the amount reported on Form ET-706, Schedule A, line 20 or Schedule B, line 37, used for dates of death on or before December 31, 2011, reduced by the deductions allowable under IRC sections 2053 or 2054 (the total of the amounts reported on federal Form 706, Part 5, lines 17, 18 and 19).

#### Line 3 – Percentage ratio

**Test 1** – Divide line 1 by line 2. If the result is greater than 35%, enter the result on line 3 and round the result to the fourth decimal place. Continue with Test 2, below. If the result is 35% or less, the estate fails to qualify and should not file this form.

**Test 2** – If the decedent made any gifts within three years prior to death, add to the amount on line 2, the value of those gifts. If any of those gifts were interests in the closely held business, add to the amount on line 1 the value of those gifts. Divide line 1 by line 2. If the result is greater than 35%, the estate qualifies. Use the percentage shown on line 3 from Test 1. If the result is 35% or less, the estate does not qualify and should not file this form.

**Line 5** – Enter the maximum amount that could be deferred. This represents the portion of the net estate tax attributable to the value of the closely held business.

**Line 6** – Enter the amount elected for installment payments. Enter that part of the amount on line 5 that the estate elects to pay in installments.

**For a deficiency** – If the estate previously elected to defer the tax attributable to a closely held business, the amount of tax eligible for

deferral is limited to the maximum amount of tax the estate could have deferred based on a return reflecting the adjustments that resulted in the deficiency and reduced by the amount previously elected to be paid in installments. This amount is prorated to the installments previously elected. The part of the deficiency prorated to future installments is paid with that installment. The part of the deficiency prorated to an installment already paid or currently due is paid with this application.

If the executor did not elect to pay the tax on the closely held business in installments, he or she has **60 days** after the issuance of a notice and demand to make an election to pay the deficiency in installments. If a federal estate tax return is required, the executor must also elect to pay the federal deficiency in installments.

**Line 7** – Enter the amount of annual installment of tax. Divide the amount on line 6 by the number of annual installments elected (that is, two or more equal annual installments, not to exceed 10).

**Line 8** – Enter the amount of tax not deferred. Include the amount of tax that is not eligible for deferral, the amount of tax that the estate chooses not to defer, and the amount of a deficiency allocated to payments that are due.

The Tax Department will bill for the annual installment of interest, or tax plus interest.

The estate of an individual whose date of death is before January 1, 1998, had until July 1, 1999, to elect to have the 4% interest rate reduced to 2% on the balance of payments subject to the 4% rate.

**Line 9** – Enter the net amount of prior tax payments you made to New York State. If you previously filed one or more returns and received one or more refunds, you must reduce the total amount of payments by the total amount of refunds and report this net amount on line 9. If you did not make any prior payments, enter **0**.

**Line 10** – If line 9 is greater than line 8, enter **0**. Any overpayment of tax and interest will be applied to your deferred tax.

### Paid preparer's responsibilities

Under the law, all paid preparers must sign and complete the paid preparer section of the return. Paid preparers may be subject to civil and/or criminal sanctions if they fail to complete this section in full.

When completing this section, enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. If you are not required to have a NYTPRIN, enter in the *NYTPRIN excl. code* box one of the specified 2-digit codes listed below that indicates why you are exempt from the registration requirement. You **must** enter a NYTPRIN **or** an exclusion code. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your Social Security number.

Code	Exemption type	Code	Exemption type
01	Attorney	02	Employee of attorney
03	CPA	04	Employee of CPA
05	PA (Public Accountant)	06	Employee of PA
07	Enrolled agent	08	Employee of enrolled agent
09	Volunteer tax preparer	10	Employee of business preparing that business' return

See our website for more information about the tax preparer registration requirements.

### Fee for payments returned by banks

The law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee.

If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

### Need help?



Visit our website at **[www.tax.ny.gov](http://www.tax.ny.gov)**

- get information and manage your taxes online
- check for new online services and features

### Telephone assistance

Estate Tax Information Center:	518-457-5387
To order forms and publications:	518-457-5431
Text Telephone (TTY) or TDD equipment users	Dial 7-1-1 for the New York Relay Service

### Privacy notification

New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request for personal information, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.