

**Effect of the Federal Economic Growth and Tax Relief Reconciliation Act of 2001
on the New York State Estate Tax for Tax Years 2001 through 2003**

On June 7, 2001, President George W. Bush signed into law the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law No. 107-16, the "Act"), amending the federal Internal Revenue Code ("IRC") for various federal taxes, including the estate tax. New York State Estate Tax Law currently conforms to the IRC of 1986, with all amendments enacted on or before July 22, 1998. The following highlights some estate tax provisions of the Act and describes their impact on the computation of the New York State estate tax.

The Act increases the federal estate tax filing threshold from \$675,000, for estates of those who died in 2001, to \$1 million for estates of those who die in 2002 and 2003. This exempts the estate of an individual who dies in 2002 or 2003 from filing a federal estate tax return when the sum of the gross estate, adjusted taxable gifts, and specific exemption is \$1 million or less, provided the decedent was a resident or citizen of the United States at the time of death.

The federal maximum unified credit for estates of those who die in 2002 and 2003 is also increased to \$345,800 under the Act. This amount is equal to the federal estate tax on a taxable estate of \$1 million, and is also referred to as the exemption equivalent.

For New York State, section 951(a) of the Tax Law (as amended by Chapter 389 of the Laws of 1997 and applicable to dates of death on or after February 1, 2000) specifies that the amount of the unified credit allowed against the federal estate tax is the amount allowed under the applicable federal law in effect on the decedent's date of death, provided the amount of the unified credit does not exceed the tax on a federal taxable estate of \$1 million.

Accordingly, the estate tax return filing threshold and the maximum unified credit are the same for federal and state purposes for estates of those who die in 2002 and 2003.

(New York State Tax Law section 951(a))

The Act lowers the maximum federal estate tax rate from 55% to 50% for estates of those who die in 2002, and to 49% for estates of those who die in 2003. These reduced tax rates affect taxable estates that exceed \$2.5 million for those who die in 2002, and taxable estates that exceed \$2 million for those who die in 2003.

The Act also reduces the maximum credit for state death taxes allowable to estates of those who die after 2001 by lowering the federal rate schedule used in computing the credit. The rates that apply to estates of those who died in 2001 are reduced by 25% for estates of those who die in 2002, by 50% for those who die in 2003, and by 75% for those who die in 2004. The Act eliminates the credit for state death taxes for estates of those who die after 2004.

To determine the estate tax for New York State, estates must use the rate schedules set forth in the Internal Revenue Code of 1986, with all amendments enacted on or before July 22, 1998, in computing the federal gross estate tax and the applicable credit for state death taxes. These are the same rates that would apply to estates of those who died in 2001.

The applicable federal tax rate table and rate table for computing the maximum credit for state death taxes will be provided as part of Form ET-706, *New York State Estate Tax Return*, along with a schedule to make the adjustments and recalculations needed to determine the New York State estate tax.

(New York State Tax Law sections 951(a) and 952(a))

The IRC provides an election to exclude from the federal gross estate a portion of the value of land subject to a qualified conservation easement. For estates of those who died on or after January 1, 2001, the Act broadens this exclusion to include any qualified land located in the United States or a United States possession. The Act also clarifies the date for determining the value of the qualifying conservation easement that is to be excluded from the value of the land.

For New York State estate tax purposes, the land must meet the requirements that apply to estates of those who died before 2001. These requirements are contained in that part of the instructions on New York Form ET-418, *Computation of Qualified Conservation Easement Exclusion*, that was applicable to estates not required to file a federal return. If the land does not meet these requirements, the land does not qualify for exclusion, and the amount deducted from the gross estate on the federal estate tax return must be added back when computing the New York State estate tax.

A schedule will be provided as part of Form ET-706, *New York State Estate Tax Return*, to make any adjustments and recalculations needed to determine the New York State estate tax.

(Internal Revenue Code Section 2031(c) as amended through July 22, 1998 and incorporated in New York State Tax Law)