



Summary of Estate Tax Legislation Enacted in 2016

This memorandum summarizes legislation enacted in 2016 related to:

- prohibiting the use of charitable contributions and activities to determine the domicile of a deceased individual, and
- the extension of relief provisions related to the disposition of an estate to a surviving spouse who is not a U.S. citizen.

Charitable contributions and activities not to be used in determining domicile

Chapter 60 of the Laws of 2016 (Part Y) amended the Tax Law to provide that charitable contributions and charitable activities may not be used in any manner to determine where an individual is domiciled at the time of his or her death for estate tax purposes. The law reflects longstanding Tax Department policy and aligns the Estate Tax Law to the current personal income tax provisions.

Accordingly, the following items, considered charitable contributions under Internal Revenue Code section 170(c), or a contribution to a not-for profit organization, as defined by section 179(q)(7) of the State Finance Law, cannot be used in the determination of domicile:

- the making of a financial contribution, gift, bequest, donation or any other financial instrument or pledge in any amount;
- the donation or loan of any object of any value;
- the volunteering, giving or donation of uncompensated time; or
- any combination of the above.

The law took effect on April 13, 2016.

(Tax Law section 951-a (f))

Extension of relief provisions regarding the disposition of estates to surviving spouses who are not United States citizens

Chapter 80 of the Laws of 2016 extended the relief provisions in section 951(b) of the Tax Law through June 30, 2019. The provisions were set to expire on July 1, 2016. The provisions provide relief from certain expenses and clarify the procedure to claim a marital deduction relating to the disposition of an estate to a surviving spouse who is not a citizen of the United States. The relief provisions are described in TSB-M-14(5)M, *2013 Legislation Amending the New York State Estate Tax*.

(Tax Law section 951(b))

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the

date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.