

New York State Department of Taxation and Finance  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-M-83(2)  
Estate & Gift Tax  
March 15, 1983

Subject: Chapters 916 and 917, Laws of 1982, enacted December 19, 1982  
Amendments to estate and gift tax laws (Articles 10-C, 26, and 26-A)  
and Estates, Powers and Trusts Law

The Extraordinary Session of the Legislature passed new legislation which unifies the tax provisions of the estate and gift tax laws, updates and modifies those laws and the Estates, Powers and Trusts Law to conform, with modifications, to changes in the federal law made by the Economic Recovery Tax Act of 1981 (ERTA) and the Tax Economic and Fiscal Responsibility Act of 1982 (TEFRA), and updates the provisions applicable to interest and penalty charges for late payment of estate taxes.

Significant changes, with applicable effective dates, are as follows:

- A. Effective January 1, 1983 - (except item 1 (b) below)-
1. Martial deduction --
    - a. deduction will be allowed for the transfer of qualified terminal interest property (known as "qtip" property)
    - b. unlimited deduction for transfers between spouses and adoption of related provisions pertaining to qualified joint interests between spouses-effective October 1, 1983
  2. Unification of estate and gift tax rates, coupled with an allowance of a "unified credit" against both taxes.
  3. Gift tax annual exclusion increased to \$10,000 per donee.
  4. Gift tax returns to be filed on a calendar year basis, with returns and payments due on April 15 of the following year.
  5. \$100,000 aggregate limitation on the exclusion from the gross estate of benefits from pension, retirement or annuity plans.
  6. Adoption of a more simplified deferral treatment of estate taxes and acceleration rules for closely held businesses. (I.R.C. section 6166)
  7. Adoption of revised provisions of I.R.C. section 2032A allowing special use valuation for certain farms and other real property (various effective dates -- see Appendix B)

B. Effective January 15, 1983 -

1. Interest rates will be set by the Tax Commission and will be charged and compounded daily.
2. Payment of estates taxes at reduced rates of interest must be made within nine months from the date of death.
3. Penalties may be incurred on taxes not paid within nine months from the date of death if the delay is due to wilful neglect and not reasonable cause; any determination to cancel penalty must be made by Order of the Surrogate.
4. Interest due on overpayments of tax made prior to assessment will be computed and compounded daily, at a rate set by the Tax Commission, from the date of the final determination of the surrogate.

(For more information regarding interest provisions and rates, see TSB-M-82(2), dated December 31, 1982.)

Repealed provisions --

A. Effective January 1, 1983 --

1. Bequests to certain minor children - T.R.C. section 2057 as contained in Article 26
2. Extension of time for paying estate tax on closely held businesses I.R.C. section 6166-A as contained in Article 26

B. Effective October 1, 1983

1. Tenancies by the entirety in real and personal property - I.R.C. section 2040(c)(d) and (e) as contained in Article 26 and sections 2515 and 2515-A as contained in Article 26-A.

The attached Appendices explain the provisions of Chapters 916 and 917. Appendix A explains those provisions of the New York State Tax Law which have been amended by reference to bill section and law section. Appendix B explains the provisions of the related IRC sections contained in the Tax Law by reference to bill section and law section. In Appendices A and B the effective date of each provision of the law is stated. Where there are exceptions to the effective dates or where further explanation is required, Appendices A and B cross-reference to Appendix C, which gives the exceptions and provides additional explanations.