

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

TSB-M-85 (2)  
Estate & Gift Tax  
April 12, 1985

Subject: Refund of tax erroneously paid (Section 249-aa, Article 10-C)

This memorandum supersedes the portion of TSB-M-79(2)  
on "Refunds."

If the value of the gross estate cannot be determined within six months of the date of death of the decedent, the executor may make a temporary (estimated) payment of the estate tax.

When a temporary payment is made before a pro forma taxing order is entered and such payment results in an overpayment of tax as finally determined by the Surrogate, the Tax Commission, with the approval of the state comptroller, will refund, to the person(s) entitled thereto, the amount paid in excess of the amount of tax fixed by the taxing order, plus accrued interest.

Refund of such overpayment will be made only upon the receipt of a written request from a qualified representative of the estate. The request for refund must be filed with the Tax Commission within six years from the date of the entry of the pro forma order fixing tax.

Overpayment of tax may also occur when the tax paid in accordance with a pro forma order fixing tax is subsequently modified or reversed. The modifying or reversing order must be entered within two years of the pro forma taxing order. Request for refund based on an amended order must be made within one year of such amended order.

Effective January 15, 1983, interest, where allowable, accrues from the date of the final determination of the Surrogate to a date within 30 days of the date of a refund check (see TSB-M-82(2), dated December 31, 1982, and TSB-M-79(2.]), dated May 25, 1984, for information on interest - Section 962(k)).