

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

TSB-M-86 (1)  
Estate & Gift Tax  
January 23, 1986

Subject: Chapters 543 and 544, Laws of 1985, enacted July 24, 1985.  
Amendments to estate and gift tax laws (Articles 10-C, 26 and 26A)

This legislation amends and updates New York State estate and gift tax laws and appendices to conform them, with modifications, to changes in federal law made by the Tax Reform Act of 1984 (TRA), and updates the provisions applicable to the method of payment of estate tax.

The attached Appendices explain the provisions of Chapters 543 and 54A. Appendix A lists, by reference to both bill section and law section, the provisions of the New York State Tax Law and the New York unconsolidated laws which have been amended or added. Appendix B lists, by reference to both bill section and law section, the provisions of the related IRC sections contained in the Tax Law. In Appendices A and B the effective date of each provision of the law is stated. Where there are exception to the effective dates or where further explanation is required, Appendix C gives the exceptions and provides additional explanations.

Appendix A

Cross - Reference between Bill section  
and amended section of N.Y. Tax Law

<u>Chpt. 543 Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provisions</u>
1	249-bb-c N.Y. eff.: July 24, 1985	The reference to transfer tax books previously kept by County Clerks is deleted.
2	951(a) N.Y. eff.: applicable to estates of decedents dying after July 24, 1985.	Provides that the applicable IRC provisions affecting New York's estate tax shall be those in effect as of July 18, 1984.
3	954(b)(2) N.Y. eff.: applicable to estates of decedents dying after July 24, 1985 except a claim for refund may be filed by prior estates meeting the conditions within 90 days of the effective date if not barred by operation of law or rule of law.	Provides that where no federal estate tax return is required, the election of an alternative valuation date shall be irrevocable once made and must be made within one year and nine months of the date of death

Appendix A

<u>Chpt. 543</u> <u>Bill Section</u>	<u>Amended New York</u> <u>Tax Law Section</u>	<u>General Content of</u> <u>Amended Provisions</u>
4	962(1) New N.Y. eff.: applicable to estates of decedents required to file federal estate tax returns (including any extensions) after July 18, 1984. Where no federal estate tax return is required applicable to estates of decedents dying after October 18, 1983.	Permits the transfer of certain NY estate tax liabilities to an Employees Stock Ownership Plan (ESOP) or worker owned cooperative where there is a transfer of employer securities to an ESOP or such a cooperative.
	962(m) New N.Y. eff.: applicable to estates of decedents dying after July 24, 1985.	Provides for an addition to tax where the valuation of the taxable estate is understated. The addition is directly related to the percentage of understatement.
	962(n)	Subsection 962(1) is relettered 962(n).
21	1000(a) N.Y. Eff.: applicable to gifts made after July 24, 1985.	Provides that the applicable IRC provisions affecting New York's gift tax shall be those in effect as of July 18, 1984.
22	1004(c) N.Y. eff.: applicable to term loans made after June 6, 1984 and demand loans outstanding after such date except demand loans outstanding on such date that were repaid by September 16, 1984.	Adds a reference to IRC section 7872, "treatment of loans with below market interest rates "as pertinent to the computation of New York gifts.
23	1007(e) New N.Y. eff.: applicable to returns filed after July 24, 1985	Provides for an addition to tax in case of an underpayment of tax attributable to a valuation understatement. The addition is directly related to the percentage of understatement.

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<u>Chpt. 543</u> <u>Bill Section</u>	<u>Amended New York</u> <u>Tax Law Section</u>	<u>General Content of</u> <u>Amended Provisions</u>
28	1009 (IRC section 7872) N.Y. Eff.: applicable to term loans made after June 6, 1984 and demand loans outstanding after such date except demand loans outstanding on such date that were repaid by September 16, 1984.	Provides rules for the gift tax treatment of loans with below market interest rates.
30	Chapter 446 Bill section 45(c)(2) 954-a 958-a 962(f) IRC - 2032A IRC - 6166 N.Y. eff.: applicable to commodities received for the 1984 crop year.	Amends chapter 446, Laws of 1984, to extend the Payment-in-Kind Program (PIK) to include the 1984 wheat crop for purposes of determining material participation in the operation of such land during such crop year as added by the federal Tax Reform Act of 1984 (TRA).
31	Chapter 446 Bill section 45(d) new 954-a 1983 958-a 962(f) IRC - 2032A N.Y. eff.: same as above IRC - 6166  Chapter 446 Bill section 45(e) New N.Y. eff.: same as above	Amends Chapter 446, Laws of 1984, to provide that a reference to the crop year shall include a reference to the 1984 crop year and any reference to the "1983 Payment-in-Kind-Program" shall include a reference to any program for the 1984 crop year for wheat.  Subsection (d) is relettered (e).
<u>Chpt. 544</u> <u>Bill Section</u>	<u>Amended New York</u> <u>Tax Law Section</u>	<u>General Content of</u> <u>Amended Provisions</u>
1	249-Z(1)(a) N.Y. eff.: applicable to payments of NY estate tax made on or after October 1, 1985.	The references to a county in which the office of appraiser is salaried and to a county treasurer are deleted.

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<u>Chpt. 544</u> <u>Bill Section</u>	<u>Amended New York</u> <u>Tax Law Section</u>	<u>General Content of</u> <u>Amended Provisions</u>
	249-Z (1) (g) N.Y. eff.: same as above	Deleted
	249-Z(1)(g) New N.Y. eff.: same as above	Paragraph (h) is relettered (g) and the reference to a county treasurer are deleted.
	249-Z(1)(h) New N.Y. eff.: same as above	Paragraph (i) is relettered (h).
2	249-Z(3) N.Y. eff.: same as above	The reference to a county treasurer is deleted.
3	249-aa N.Y. eff.: same as above	The reference to adjustments of fees paid to a county treasurer for refunds of overpayments is deleted.
4	249-bb(c) N.Y. eff.: same as above	The reference to the tax commission paying to a county treasurer any tax it recovered that was payable to a country treasurer is deleted.
5	249-ee N.Y. elf.: same as above	The procedure for county treasurer to issue a receipt for the payment of estate tax is deleted.
6	249-ff Repealed N.Y. eff.: same as above	
	249-ii Repealed N.Y. eff.: same as above	
7	962(b)(1) N.Y. eff.: same as above	The references to deleted or repealed provisions are removed.
8	962(K)(9) N.Y. eff.: same as above	The references to county treasurer are deleted.

Appendix B  
Cross-reference between Bill section  
and IRC provisions contained in N.Y. Tax Law

<u>Chpt. 543 Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provisions</u>
5	2032(c) N.Y. eff.: applicable to estates of decedents dying after July 24, 1985.	Provides that the election of an alternative valuation date may only be made where it would decrease both the value of the gross estate and the amount of the estate tax.
	2032(d) N.Y. eff.: same as above	Provides that the election of an alternative valuation date once made shall be irrevocable and shall not be made later than one year after the time prescribed by law (including extensions) for filing an estate tax return.
6	2032A(d)(3) N.Y. eff.: applicable to estates of decedents dying after August 10, 1977. A claim for refund may be filed no later than July 24, 1986.	Provides that where an executor has substantially complied with the requirements to make an election for special use valuation, they shall be allowed up to 90 days after notification of the defects to make the corrections.
7	2039(c), (d),(e),(f) and (g) N.Y. eff.: applicable to estates of decedents dying after July 24, 1985.	Repealed
	2039(c) New N.Y. eff.: same as above	Provides an exemption of certain annuity interests created by community property laws.
8	2039(e) N.Y. eff.: applicable to obligations issued after December 31, 1983.	Provides that retirement bonds are not eligible for the exemption for individual retirement agreements.

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<u>Chpt. 543 Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provisions</u>
9	2043(b)(2) New N.Y. eff.: applicable to estates of decedents dying after July 18, 1984.	Provides that a transfer of property that satisfies the requirements of 2516(1) relating to property settlements) shall be considered to be made for an adequate and full consideration in money or money's worth for purposes of section 2053(e) (relating to marital rights).
10	2053(c)(1)(C) New N.Y. eff.: applicable to estates of decedents dying after December 31, 1982.	Provides that no deduction shall be allowed for a claim against the estate by a remainderman relating to property described in section 204A for which a marital deduction was previously allowed.
11	2053(e) N.Y. eff.: applicable to estates of decedents dying after July 18, 1984.	Cross reference section 2043(b)(2)above.
12	2055(e)(3) N.Y. eff.: applicable to reformations made after December 31, 1978 except reformation made prior to July 25, 1985 meeting the then existing requirements will be allowed.	Repealed
	2055(e)(3) New N.Y. eff.: same as above except where a reformation meets with the new require- ments and on the effective date a refund is barred by any law or rule of law, a claim for refund may never- the-less be filed within one year of July 24, 1985.	Provides that a deduction shall be allowed under 2055(a) where a qualified reformation of a governing instrument converts a non-deductible charitable split interest contribution into a deductible split interest contribution.

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<u>Chpt. 543 Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provisions</u>
13	2055(f)(2) New N.Y. eff.: applicable to taxable years beginning after July 24, 1985, except for organizations meeting the requirements of IRC section 501(k) as added by the Tax Reform Act of 1984 then this section shall be applicable to taxable years beginning after July 18, 1984.	Provides a cross reference to IRC section 501(k) for treatment of organizations providing child care.
	2055(f)(3) through (12) N.Y. eff.: same as above	Paragraphs (2) through (11) are renumbered (3) through (12).
14	2056(b)(7)(B)(ii)(I) N.Y. eff.: applicable to to estates of decedents dying after December 31, 1982.	Provides that a usufruct interest for life under Louisiana law is a qualified income interest for life.
15	2105(b) N.Y. eff.: applicable to obligations issued after July 18, 1984 with respect to estates of decedents dying after such date.	Provides an exclusion from estate tax for certain interest payments received by nonresident aliens.
16	2210 New N.Y. eff.: applicable to estates of decedents required to file federal (ESOP) estate tax returns (including any extensions) after July 18, 1984. Where no federal estate tax return is required, applicable to estates of decedents dying after October 18, 1983.	Provides for the transfer of certain estate tax liabilities to an Employees Stock Ownership Plan or worker owned cooperative where there is a transfer of employer securities to an ESOP or such a cooperative.

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<u>Chpt. 543 Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provisions</u>
17	6166(b)(8) New N.Y. eff.: applicable to estates of decedents dying after July 24, 1985, except where at the election of the executor it is applicable to estates of decedents dying after July 18, 1984.	Provides that a portion of stock of a holding company which owns stock in a qualifying closely held trade or business to be considered business company stock.
18	6166(g)(1)(E) New N.Y. eff.: same as above	Provides that certain dispositions of stock in, or withdrawal of money or other property from a holding company shall be treated as a disposition of stock in a business company.
	6166(g)(1)(F) New N.Y. eff.: same as above	Provides that certain dispositions of stock in or withdrawal of money or other property from a business company by a holding company shall be treated as a disposition of stock in a business company.
19	6166(g)(2)(C) New N.Y. eff.: same as above	Provides that where by reason of section 6166(b)(8)(A) stock in a corporation, dividends paid by such other corporation to the corporation shall be treated as paid to the estate of the decedent to the extent attributable to the qualifying stock.
20	6166(j)(6) New N.Y. eff.: applicable to estates of decedents re- quired to file federal estate tax returns (including any extensions) after July 18, 1984. Where no federal estate tax return is required, applicable to estates of decedents dying after October 18, 1983.	Provides a cross reference to IRC section 2210(c) for the provisions allowing a plan administrator or eligible worker-owned cooperative to elect to pay a certain portion of the estate tax in installments.



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<u>Chpt. 543 Bill Section</u>	<u>Amended New York Tax Law Section</u>	<u>General Content of Amended Provisions</u>
24	2516 N.Y. eff.: applicable to transfers made after July 18, 1984.	Provides that transfers of property to a former spouse in consideration of the release of various marital rights are not taxable gifts if they were made pursuant to a written agreement if divorce occurs within one year prior to but not more than two years after the execution of such an agreement.
25	2517(a)(5) N.Y. eff.: applicable to obligations issued after December 31, 1983.	Deletes the reference to a retirement bond described in section 409(a) of the IRC as eligible for the gift tax exemption for transfers of individual retirement accounts
26	2522(c)(4) New N.Y. eff.: applicable to reformations made after December 31, 1978 except a reformation made prior to July 25, 1985 meeting the then existing requirements will be allowed. Where a reformation meets with the new requirements and on the effective date a refund is barred by any law or rule of law, a claim for refund may nevertheless be filed within one year of July 24, 1985.	Provides that a deduction shall be allowed for a qualified reformation and refers to section 2055(e)(3) for applicable rules.
27	2522(d)(1) New N.Y. eff.: applicable to taxable years beginning after July 24, 1985, except organizations meeting the requirements of IRC section 501(k) as added by the 1984 TRA then this section shall be applicable to taxable years beginning after July 18, 1984.	Provides a reference to IRC section 501(k) for treatment of certain organizations providing child care.
	2522(d)(2) and (3) New N.Y. eff.: same as above	Previously 2522(d)(1) and (2) are renumbered.

Appendix C

<u>Chpt. 543</u> <u>Bill Section</u>	<u>Tax Law</u>	<u>Exceptions</u>
29	Chapter 916 Bill section 83(a) IRC - 2039(c) N.Y. eff.: December 19, 1982 applicable to estates of decedents dying after December 31, 1982.	Amends certain effective date provisions of Chapter 916, Laws of 1982, to conform to technical changes made by the federal Tax Reform Act of 1984 (TRA) to the federal Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA).
32	Chapter 446 Bill section 46(f) and (j) IRC-2055(f) IRC-2522(d) N.Y. elf.: July 19, 1984.	Amends the effective date clauses of Chapter 446, Laws of 1984, to conform to the changes enacted by the federal Tax Reform Act of 1984 which made the amendment permanent.