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

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Estate and Gift Tax
July 20, 1995

Important Notice
1995 New York State Estate Tax Change

Estate Tax Deduction for Principal Residence

Estates of individuals who died On or after June 8, 1995, are eligible to deduct the net value of the individual's principal residence, up to $250,000, in determining the New York State estate tax.

The estate of an individual is allowed the deduction regardless of the individual's domicile at the time of death or the location of the principal residence (in or outside New York State).

To qualify, the principal residence must be included in the decedent's New York adjusted gross estate. To determine the amount allowable, the value of the principal residence must be reduced by any deductions taken on the estate tax return, for marital or charitable bequests, mortgages or other indebtedness, and expenses or casualty losses, that are specifically attributable to the principal residence.

The deduction for a principal residence is not allowed for that part of the decedent's principal residence that passes to the surviving spouse and for which a marital deduction is claimed. In addition, the deduction is not allowed for that part of the principal residence that passes to a qualifying organization and for which a charitable deduction is claimed. However, any remaining part of the principal residence passing to another person would qualify for the deduction for a principal residence.

For purposes of this deduction, *principal residence* has the same meaning as when used in section 1034 of the federal Internal Revenue Code (relating to the rollover of any gain on the sale of a principal residence).

The estate tax deduction for principal residence will be included in a revised Form ET-90, *New York State Estate Tax Return,* which will be available August 15, 1995. If you need forms, call toll free (from New York State only) I 800 462-8100. From areas outside New York State, call (518) 438-1073.

If you want to file a New York State Estate Tax Return and claim the principal residence deduction **before** the revised return is available, use **New York Schedule L** on **Form ET-90.3** and do the following:

1. Using the second part of Schedule L, titled *List expenses incurred in administering property not subject to claims,* enter the address of the property and identify the schedule (A, B, E, F or G) of the return on which it is reported. Clearly identify the entry as the ***deduction for the principal residence***.

2. Enter the net amount of the deduction (not exceeding $250,000) after subtracting all deductions specifically attributable to the property.

   Note: If only part of the property was used as a principal residence, include only that part of the value of the property attributable to the principal residence. For example, if any part of the actual residence was used for income producing purposes, such as rental of a room or as a home office, the value attributable to that part of the property would not qualify for the deduction. Attach a worksheet showing how you determined the value.

3. If you have other deductions, which are reportable on Schedule L, enter them under the appropriate classification and enter the total of all the deductions on line 9 of Schedule L and on Form ET-90, page 2, line 40.

4. Attach a worksheet showing how you computed the deduction for the principal residence.

If you are required to file a federal return, substitute New York Schedule L for the federal Schedule L when you file the NYS estate tax return. (The revised Form ET-90 will have the deduction on Schedule 5, page 4, not Schedule L.)

For additional information, call toll free (from New York State only) 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

Use the following worksheet to calculate the principal residence deduction:

a. Value of principal residence reported on Schedule A, B, E (Part II only), F or G.................................. | **a** | | |
(See *Note* under item 2 above.)

b. Deductions specifically attributable to the principal residence, as reported on
Schedules J, K, M and N:
   Administration expenses *(from Schedule J)* ....
   Debts of decedent *(from Schedule K)* ....
   Bequests to spouse (marital deduction) *(from Schedule M)*...........
   Charitable bequests *(from Schedule N or federal Schedule O)* ....

Total deductions *(add items above)*.. | **b** | | |
c. Net value of principal residence *(subtract line b from line a)* .... | **c** | | |
d. Maximum allowable deduction .... | **d** | 250,000 | -- |
e. Deduction for principal residence *(enter the lesser of line c or line d)* .... | **e** | | |