

## **What you need to know about Maryland's estate tax**

### **What is the Maryland estate tax? What is the tax rate?**

The Maryland estate tax is a transfer tax imposed on the transfer of assets from an estate. It is based on the maximum credit for state death taxes allowable under § 2011 of the <https://www.irs.gov/privacy-disclosure/tax-code-regulations-and-official-guidance>] [Internal Revenue Code](#). The credit used to determine the Maryland estate tax cannot exceed 16% of the amount by which the decedent's taxable estate exceeds the Maryland estate tax exemption amount for the decedent's year of death. Note: For decedents dying after December 31, 2001, the maximum allowable credit for state death taxes will not be reduced, for purposes of the Maryland estate tax, by any act of Congress enacted on or after January 1, 2001.

### **What about the inheritance tax?**

The inheritance tax is a separate tax collected by the Register of Wills located in the county where the decedent either lived or owned property. The tax is imposed on the clear value of property that passes from a decedent to some certain beneficiaries. It is levied on property that passes under a will, the intestate laws of succession, and property that passes under a trust, deed, joint ownership, or otherwise. For more information, contact the [Office of the Register of Wills](#).

### **What if Maryland inheritance and estate taxes are both due? Isn't that double taxation?**

The inheritance tax paid to the Register of Wills is subtracted from the gross Maryland estate tax liability and the difference is the Maryland estate tax due. If the inheritance tax paid is equal to or exceeds Maryland's determination of the credit for state death taxes, no Maryland estate tax is due.

However, the Maryland estate tax is owed and due until the inheritance tax is actually paid. If the amount of inheritance tax paid to the Register of Wills on or before the due date of the Maryland estate tax return is less than the gross Maryland estate tax liability, interest and/or penalty will be assessed on the outstanding liability. Interest will continue to accrue until the inheritance tax paid equals or exceeds the outstanding estate tax liability. See *Comptroller of the Treasury v. Jameson*, 332 Md. 723, 633 A.2d 93 (1993). For example, Estate owes \$150,000 of estate tax, due by the nine (9) month statutory due date of January 1, 2014. Estate made two \$75,000 payments of inheritance tax, one on December 1, 2013, and one on February 1, 2014. Because only \$75,000 was paid by the estate tax due date, interest will be due on the remaining \$75,000 from January 1, 2014 through February 1, 2014 when the amount of inheritance tax paid to the Register of Wills equaled the Maryland estate tax liability.

### **Who is responsible for filing the Maryland estate tax return?**

The duly appointed personal representative of the decedent's estate must file the return. If there is more than one personal representative, the return must be made jointly by all. If there is no personal representative appointed, every person in actual or constructive possession of any property of the decedent is required to make and file a return.

### **What are the requirements for filing a Maryland estate tax return?**

A Maryland estate tax return is required for every estate whose federal gross estate, plus adjusted taxable gifts, plus property for which a Maryland Qualified Terminal Interest

Property (QTIP) election was previously made on a Maryland estate tax return filed for the estate of the decedent's predeceased spouse, equals or exceeds the Maryland estate tax exemption amount for the year of the decedent's death, and the decedent at the date of death was a Maryland resident or a nonresident but owned real or tangible personal property having a taxable situs in Maryland.

The filing requirement varies depending on the year of the decedent's death.

Year	Gross Estate
2019 & after	\$5,000,000
2018	\$4,000,000
2017	\$3,000,000
2016	\$2,000,000
2015	\$1,500,000
2002-2014	\$1,000,000
2000-2001	\$675,000
1999	\$650,000
Prior to 1999	Contact us

The gross estate includes all property, real or personal, tangible or intangible, wherever situated, in which the decedent had an interest. It includes such items as annuities, joint assets with right of survivorship, transfers made without adequate consideration, the includible portion of tenancies by the entirety, certain life insurance proceeds, and general power of appointment property, to name a few. The value of the property must be based upon an appraisal from a Certified Appraiser. The probate estate is property of the decedent owned individually or as tenants in common. Non-probate property is property that passes by the terms of the instrument under which it is held or by operation of law. As a reminder, the total gross estate for estate tax purposes includes probate and non-probate property. Refer to [§2031](#) of the Internal Revenue Code to determine the value of the gross estate.

#### **How do I file the Maryland return? And when?**

Once you have determined a Maryland estate tax return is required to be filed for the estate, complete the federal estate tax return, <https://www.irs.gov/pub/irs-pdf/f706.pdf>] [IRS Form 706](#), for the date of the decedent's death. You will be required to complete the federal return even though you may not be required to file the return with IRS.

Using the information from the federal return, complete the Maryland estate tax return, Form MET-1. Make sure to use the form appropriate for the date of the decedent's death. See [Maryland Estate Tax](#) for a list of MET-1 forms.

File the return within nine (9) months after the decedent's date of death, or by the approved extension date. The Maryland estate tax return must be filed directly with the Comptroller of Maryland.

Include the federal return, complete with all schedules, attachments and supporting documents when filing the Maryland estate tax return. In all cases, you must submit a certified death certificate, the last will and testament and any applicable trusts.

Mail the estate tax return to:

Comptroller of Maryland  
Revenue Administration Division  
Estate Tax Unit  
P.O. Box 828

Annapolis, MD 21404-0828

Upon receipt, the Comptroller will send the return to the Register of Wills for completion of Section III to certify the payment of inheritance taxes.

**Where do I pay the Maryland estate tax?**

Pay *directly* to the Comptroller of Maryland on or before the due date of the Maryland estate tax return. Mail to:

Comptroller of Maryland  
Revenue Administration Division  
Estate Tax Unit  
P.O. Box 828  
Annapolis, MD 21404-0828

**Are there interest or penalty charges for late payment of the tax?**

Yes. Maryland law provides for interest and late payment penalty if the tax is not paid when due. Interest is assessed on any portion of the liability that is not satisfied by the statutory due date, notwithstanding the fact that the tax is paid pursuant to an approved alternative payment schedule. A penalty of up to 10% is charged on any Maryland estate tax not paid by the due date.

**Can I get an extension to file the Maryland return or pay the Maryland estate tax?**

The Comptroller of Maryland may extend the time to file an estate tax return up to six months, or up to one year if the person required to file the return is out of the United States. There are also provisions for granting an alternative payment schedule for the tax payment.

The request for an extension must be in writing and filed on or before the due date of the Maryland estate tax return. The request must include:

- Completed Form MET-1E, Application for Extension of Time to File the Maryland Estate Tax Return.
- A copy of the federal extension application Form 4768 including attachments, if applicable.
- Remittance of estimated Maryland estate tax, unless estimated tax calculation shows no tax due or an [alternative payment schedule](#) is also requested.

**Can I get a refund if I overpay?**

The law allows for refunds of Maryland estate tax up to three years from the date of the event that causes the refund to become due. File an amended Maryland estate tax return to make a request for a refund of previously paid Maryland estate tax.

**What about the income tax on an estate?**

An estate may be required to file a Maryland fiduciary income tax return, [Form 504](#). Contact the Revenue Administration Division for assistance with fiduciary returns by calling 410-260-7980 in Central Maryland or 1-800-MD TAXES from elsewhere in the state, Monday through Friday, 8:30 a.m.– 4:30 p.m.

**What recent legislative changes affect the Maryland estate tax?**

The federal tax law changes enacted in 2017 increased the value of unified credit for federal estate tax purposes. As a result, during the 2018 Legislative Session, the Maryland General Assembly enacted the Maryland Estate Tax-Unified Credit Act which alters the unified credit used for determining the amount that can be excluded for Maryland estate tax purposes. The enacted Maryland legislation ultimately decoupled from the federal credit once again. The amount that can be excluded for decedents dying on or after January 1, 2019 is \$5.0 million. This legislation also established portability for Maryland estate tax purposes. Surviving spouses may now elect to claim any unused portion of their predeceased spouse's unused Maryland estate tax exemption under certain circumstances.

The exclusion amounts set by legislation enacted in 2014 for decedents dying prior to January 1, 2019 remain the same. The amount that can be excluded for Maryland estate tax purposes is equal to (1) \$1.5 million for a decedent dying in calendar year 2015; (2) \$2.0 million for a decedent dying in calendar year 2016; (3) \$3.0 million for a decedent dying in calendar year 2017; and (4) \$4.0 million for a decedent dying in calendar year 2018.

During the 2012 Legislative Session the Maryland General Assembly enacted the Family Farm Preservation Act of 2012, which adds a new subsection to Title 7 of the Tax-General Article allowing for the exclusion of up to \$5,000,000 of the value of qualified agricultural property from the value of the gross estate for decedents dying after December 31, 2011. The new provision also provides that the Maryland estate tax may not exceed 5% of the value of specified agricultural property exceeding \$5,000,000. Maryland qualified agricultural exclusion forms may be obtained by calling the Estate Tax Unit at (410) 260-7850.

During the 2015 legislative session, the Maryland General Assembly enacted legislation that changed the option allowing Maryland estate tax returns to be filed with the Register of Wills or with the Comptroller. Beginning July 1, 2015, all Maryland estate tax returns must be filed directly with the Comptroller. Requests for certification of the amount of inheritance paid on behalf of a decedent will be made by the Comptroller only; such certification requests should no longer be made by the personal representative of the decedent's estate or any other person required to file a Maryland estate tax return with regard to property passing from the decedent.