

CHAPTER 575**MAINE ESTATE TAX****§4061. Applicability of provisions**

This chapter applies to the estates of persons who die after June 30, 1986 and before January 1, 2013. [PL 2011, c. 380, Pt. M, §3 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 2011, c. 380, Pt. M, §3 (AMD). PL 2011, c. 380, Pt. M, §10 (AFF).

§4062. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1981, c. 451, §7 (NEW).]

1. Code.

[PL 1987, c. 504, §4 (RP).]

1-A. Federal credit. "Federal credit" has the following meanings:

A. For the estates of decedents dying after December 31, 2002, "federal credit" means the maximum credit against the tax on the federal taxable estate for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The state death tax deduction contained in the Code, Section 2058 must be disregarded. The unified credit must be determined under the Code, Section 2010 as of December 31, 2000. The termination provision contained in the Code, Section 2210 must be disregarded. Notwithstanding any other provision of this Title to the contrary, the tax determined by this chapter for estates of decedents dying after December 31, 2009 must be determined in accordance with the law applicable to decedents dying during calendar year 2009, except that for purposes of calculation of the amount of property that may be treated as Maine qualified terminable interest property under subsection 2-B, paragraph C, the applicable exclusion amount must be determined in accordance with the law applicable as of the decedent's actual date of death; and [PL 2011, c. 380, Pt. M, §4 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

B. For the estates of all other decedents, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011. [PL 2005, c. 12, Pt. N, §1 (RPR); PL 2005, c. 12, Pt. N, §4 (AFF).]

[PL 2011, c. 380, Pt. M, §4 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

1-B. Federal taxable estate. "Federal taxable estate" means the taxable estate as determined using the applicable Code as of the date of the decedent's death except as provided in subsection 1-A, subsection 2 and:

A. The state death tax deduction contained in the Code, Section 2058 must be disregarded; [PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]

B. For estates of decedents dying after December 31, 2004, the federal taxable estate must be decreased by an amount equal to the value of Maine qualified terminable interest property in the estate of the decedent; and [PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]

C. For estates of decedents dying after December 31, 2004, the federal taxable estate must be increased by an amount equal to the value of Maine elective property in respect of the decedent. [PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]
[PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]

2. Federal gross estate. "Federal gross estate" means the gross estate of a decedent as determined by the assessor in accordance with the Code, except that, notwithstanding the Code, Section 2035, the value of the gross estate includes the value of all taxable gifts as defined under the Code, Section 2503(a) made by the decedent during the 1-year period ending on the date of the decedent's death, but does not include the value of taxable gifts made prior to January 1, 2008.
[PL 2009, c. 213, Pt. E, §3 (AMD); PL 2009, c. 213, Pt. E, §6 (AFF).]

2-A. Maine elective property. "Maine elective property" means all property in which the decedent at the time of death had a qualified income interest for life and with respect to which, for purposes of determining the tax imposed by this chapter on the estate of a predeceased spouse of the decedent, the federal taxable estate of that predeceased spouse was decreased pursuant to subsection 1-B, paragraph B. The value of Maine elective property is the value determined by the assessor in accordance with the Code as if such property were includible in the decedent's federal gross estate pursuant to the Code, Section 2044 and, in the case of estates that do not incur a federal estate tax, as if the estate had incurred a federal estate tax.
[PL 2009, c. 213, Pt. E, §4 (AMD); PL 2009, c. 213, Pt. E, §6 (AFF).]

2-B. Maine qualified terminable interest property. "Maine qualified terminable interest property" means property:

A. That is eligible to be treated as qualified terminable interest property under the Code, Section 2056(b)(7); [PL 2005, c. 12, Pt. N, §2 (NEW); PL 2005, c. 12, Pt. N, §4 (AFF).]

B. For which no election allowable under the Code, Section 2056(b)(7) is made with respect to the federal estate tax; and [PL 2005, c. 12, Pt. N, §2 (NEW); PL 2005, c. 12, Pt. N, §4 (AFF).]

C. With respect to which an election is made, on a return filed timely with the State Tax Assessor, to treat the property as Maine qualified terminable interest property for purposes of the tax imposed by this chapter. The amount of property with respect to which such election is made may not be greater than the amount, if any, by which the applicable exclusion amount determined as of the date of the decedent's death using the Code, Section 2010(c) in effect on that date exceeds the applicable exclusion amount determined as of the date of the decedent's death using the Code, Section 2010(c) in effect on December 31, 2000. [PL 2005, c. 622, §16 (AMD).]

[PL 2005, c. 622, §16 (AMD).]

3. Nonresident. "Nonresident" means a natural person domiciled in a jurisdiction other than this State at the time of that person's death.

[PL 2011, c. 380, Pt. M, §5 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

4. Person.

[PL 2005, c. 218, §40 (RP).]

5. Personal representative. "Personal representative" means the personal representative of the decedent or, if there is no personal representative appointed, qualified and acting within this State, any person who is in the actual or constructive possession of any property included in the gross estate of the decedent.

[PL 1981, c. 451, §7 (NEW).]

6. Resident. "Resident" means a natural person domiciled in this State at the time of that person's death.

[PL 2011, c. 380, Pt. M, §6 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

7. Transfer. "Transfer" includes the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain sale, gift or appointment in the manner described in this chapter.

[PL 2005, c. 218, §41 (AMD).]

8. Value.

[PL 2007, c. 693, §25 (RP).]

8-A. Value. When determining value for purposes of this chapter, "value" means, with respect to an estate or to property included in an estate, including Maine qualified terminable interest property, the value as determined by the assessor in accordance with the Code.

[PL 2007, c. 693, §26 (NEW).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1985, c. 535, §7 (AMD). PL 1987, c. 504, §4 (AMD). PL 2001, c. 559, §GG3 (AMD). PL 2001, c. 559, §GG26 (AFF). PL 2003, c. 20, §JJ1 (AMD). PL 2003, c. 673, §§D1,2 (AMD). PL 2005, c. 12, §§N1,2 (AMD). PL 2005, c. 12, §N4 (AFF). PL 2005, c. 218, §§40,41 (AMD). PL 2005, c. 622, §§15-17 (AMD). PL 2005, c. 622, §33 (AFF). PL 2007, c. 693, §§24-26 (AMD). PL 2009, c. 213, Pt. E, §§1-4 (AMD). PL 2009, c. 213, Pt. E, §6 (AFF). PL 2011, c. 380, Pt. M, §§4-6 (AMD). PL 2011, c. 380, Pt. M, §10 (AFF).

§4063. Tax on estate of resident

A tax is imposed upon the transfer of the estate of every person who dies on or after January 1, 2002 and who, at the time of death, was a resident of this State. The amount of this tax is equal to the federal credit multiplied by a fraction, the numerator of which is the value of that portion of the decedent's federal gross estate that consists of real and tangible personal property located in the State plus the value of all intangible personal property and the denominator of which is the value of the decedent's federal gross estate. [PL 2007, c. 693, §27 (AMD).]

A credit against the tax imposed by this section is allowed for all constitutionally valid estate, inheritance, legacy and succession taxes actually paid to another jurisdiction upon the value of real or tangible personal property owned by the decedent or subject to those taxes as a part of or in connection with the estate and located in that jurisdiction if the value of that property is also included in the value of the decedent's intangible personal property subject to taxation under this section. The credit provided by this section may not exceed the amount of tax otherwise due multiplied by a fraction, the numerator of which is the value of the property located in the other taxing jurisdiction subject to this credit on which tax was actually paid and the denominator of which is the value of the decedent's federal gross estate. For purposes of this section, "another jurisdiction" means another state, the District of Columbia, a possession or territory of the United States or any political subdivision of a foreign country that is analogous to a state. [PL 2007, c. 693, §27 (NEW).]

For purposes of this section, "federal gross estate" means the decedent's federal gross estate as modified by Maine qualified terminable interest property and Maine elective property. [PL 2007, c. 693, §27 (NEW).]

1. Amount.

[PL 2005, c. 622, §18 (RP).]

2. Values.

[PL 2005, c. 622, §18 (RP).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1985, c. 535, §8 (AMD). PL 1991, c. 546, §27 (AMD). PL 1999, c. 414, §34 (AMD). PL 2001, c. 559, §GG4 (AMD). PL 2001, c. 559, §GG26 (AFF). PL 2003,

c. 20, §JJ2 (AMD). PL 2003, c. 673, §D3 (AMD). PL 2005, c. 622, §18 (RPR). PL 2007, c. 693, §27 (AMD).

§4063-A. Tax on estate of resident

1. Amount. A tax is imposed upon the transfer of the estate of a person who dies during the calendar year 2002 and who, at the time of death, was a resident of this State. The amount of this tax is equal to the lesser of:

A. The federal estate tax calculated prior to the application of the federal credit; and [PL 2001, c. 559, Pt. GG, §5 (NEW); PL 2001, c. 559, Pt. GG, §26 (AFF).]

B. The amount by which the federal credit divided by .75 exceeds the lesser of:

(1) The aggregate amount of all constitutionally valid estate, inheritance, legacy and succession taxes actually paid to the several states of the United States, other than this State, in respect of any property owned by that decedent or subject to those taxes as a part of or in connection with the decedent's estate; and

(2) An amount equal to such proportion of the federal credit as the value of properties taxable by other states bears to the value of the entire federal gross estate wherever situated. [PL 2001, c. 559, Pt. GG, §5 (NEW); PL 2001, c. 559, Pt. GG, §26 (AFF).]

[PL 2001, c. 559, Pt. GG, §5 (NEW); PL 2001, c. 559, Pt. GG, §26 (AFF).]

2. Values.

[PL 2005, c. 622, §19 (RP).]

SECTION HISTORY

PL 2001, c. 559, §GG5 (NEW). PL 2001, c. 559, §GG26 (AFF). PL 2005, c. 622, §19 (AMD).

§4064. Tax on estate of nonresident

A tax is imposed upon the transfer of real property and tangible personal property situated in this State and held by an individual who dies prior to January 1, 2002 or after December 31, 2002 and who at the time of death was not a resident of this State. Maine property is subject to the tax imposed by this section to the extent that such property is either included in the decedent's federal gross estate or is Maine elective property. The amount of this tax is equal to that proportion of the federal credit that the value of the decedent's Maine real and tangible personal property in this State bears to the value of the decedent's federal gross estate. The share of the federal credit used to determine the amount of a nonresident individual's estate tax under this section is computed without regard to whether the specific real or tangible personal property located in the State is marital deduction property. [PL 2011, c. 380, Pt. M, §7 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

When real or tangible personal property is owned by a pass-through entity, the entity must be disregarded and the property must be treated as personally owned by the decedent if the entity does not actively carry on a business for the purpose of profit and gain; the ownership of the property in the entity was not for a valid business purpose; or the property was acquired by other than a bona fide sale for full and adequate consideration and the decedent retained a power with respect to or interest in the property that would bring the real or tangible personal property located in this State within the decedent's federal gross estate. [PL 2011, c. 380, Pt. M, §7 (NEW); PL 2011, c. 380, Pt. M, §10 (AFF).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1995, c. 281, §22 (AMD). PL 1999, c. 521, §A10 (AMD). PL 2001, c. 559, §GG6 (AMD). PL 2001, c. 559, §GG26 (AFF). PL 2003, c. 20, §JJ3 (AMD). PL 2003, c. 673, §D4 (AMD). PL 2005, c. 12, §M1 (AMD). PL 2005, c. 12, §M2 (AFF). PL 2005, c. 218, §42 (AMD). PL 2005, c. 618, §5 (AMD). PL 2005, c. 618, §22 (AFF). PL 2005, c. 622,

§20 (AMD). PL 2007, c. 466, Pt. A, §62 (AMD). PL 2007, c. 466, Pt. A, §63 (AFF). PL 2011, c. 380, Pt. M, §7 (AMD). PL 2011, c. 380, Pt. M, §10 (AFF).

§4064-A. Tax on estate of nonresident

1. Amount. A tax is imposed upon the transfer of real property and tangible personal property situated in this State and held by an individual who dies during the calendar year 2002 and who at the time of death was not a resident of this State. When real or tangible personal property has been transferred into a trust, the tax imposed by this section applies as if the trust did not exist and the property was personally owned by the decedent. Maine property is subject to the tax imposed by this section to the extent that such property is included in the decedent's gross estate as finally determined for federal estate tax purposes. The amount of this tax is equal to the lesser of:

A. That proportion of the federal estate tax calculated prior to the application of the federal credit that the value of Maine real and tangible personal property taxed in this State that qualifies for the credit bears to the value of the decedent's total federal gross estate; and [PL 2001, c. 559, Pt. GG, §7 (NEW); PL 2001, c. 559, Pt. GG, §26 (AFF).]

B. That proportion of the federal credit divided by .75 that the value of Maine real and tangible personal property taxed in this State that qualifies for the credit bears to the value of the decedent's total federal gross estate. [PL 2001, c. 559, Pt. GG, §7 (NEW); PL 2001, c. 559, Pt. GG, §26 (AFF).]

The share of the federal credit used to determine the amount of a nonresident individual's estate tax under this section is computed without regard to whether the specific real or tangible personal property located in the State is marital deduction property.

[PL 2005, c. 622, §21 (AMD).]

2. Proceeds from sale of property. Proceeds from the sale of property are taxable under this section if those proceeds are included in the total federal gross estate and the sale was made in contemplation of death. A sale of property made within 6 months prior to the death of the grantor is deemed to be in contemplation of death within the meaning of this section.

[PL 2001, c. 559, Pt. GG, §7 (NEW); PL 2001, c. 559, Pt. GG, §26 (AFF).]

SECTION HISTORY

PL 2001, c. 559, §GG7 (NEW). PL 2001, c. 559, §GG26 (AFF). PL 2005, c. 622, §21 (AMD).

§4065. Personal representative's liability for tax

1. Payment of tax. The tax imposed by this chapter shall be paid by the personal representative to the extent of assets subject to his control. The State Tax Assessor may accept payment of estate taxes in works of art in accordance with Title 27, chapter 2, subchapter II.

[PL 1981, c. 451, §7 (NEW).]

2. Certification of payment. No final account of a personal representative of an estate may be allowed by the Probate Court unless and until the personal representative has filed in the Probate Court a certificate of the State Tax Assessor showing either that the amount of tax has been paid, that payment has been secured as provided in section 4069 or that no tax is due.

[PL 1981, c. 451, §7 (NEW).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW).

§4066. Discharge of personal representative's personal liability

If the personal representative makes a written application, accompanied by a copy of the final determination of the federal estate tax liability, if any, and other supporting documentation that the State Tax Assessor may require, to the assessor for determination of the amount of the tax and discharge

of personal liability for that tax, the assessor, as soon as possible and in any event within one year after the making of the application, or if the application is made before the return is filed, then within one year after the return is filed, shall notify the personal representative of the amount of the tax and of any interest on that amount. The personal representative, on payment of that amount, is discharged from personal liability for any deficiency in tax subsequently found to be due and is entitled to a certificate of discharge. [PL 2003, c. 673, Pt. D, §5 (AMD).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 2003, c. 673, §D5 (AMD).

§4067. Records; statements and returns; rules

(REPEALED)

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1981, c. 706, §27 (RP).

§4068. Tax due date; filing of return and payment of tax

1. Date due. Except as otherwise provided by this chapter, a return required by this section is due 9 months after the date of the decedent's death and any tax due under this chapter is due at the same time. Interest accrues on any amount of tax not paid by the due date.

[PL 2005, c. 218, §43 (AMD).]

2. Return required. The personal representative shall file a Maine estate tax return whenever:

A. The Code requires that a federal estate tax return be filed; or [PL 2005, c. 218, §43 (NEW).]

B. The federal gross estate, increased by the amount of adjusted taxable gifts made by the decedent after December 31, 1976 and by the aggregate amount of any specific gift tax exemption under former Code, Section 2521 used by the decedent after September 8, 1976 and by Maine elective property, exceeds the exclusion and related unified credit amounts specified in section 4062, subsection 1-A. [PL 2011, c. 380, Pt. M, §8 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

The return must be in the form prescribed by the State Tax Assessor and it must be accompanied by a copy of the federal estate tax return, if any, and by other supporting documentation that the assessor may require.

[PL 2011, c. 380, Pt. M, §8 (AMD); PL 2011, c. 380, Pt. M, §8 (AFF).]

3. No tax liability. In all cases where a Maine estate tax return is not required to be filed:

A. If the personal representative makes no election pursuant to section 4062, subsection 2-B, the personal representative, surviving joint tenant of real estate or any other person whose real estate might be subject to a lien for taxes pursuant to this chapter may at any time file with the assessor in the form prescribed by the assessor a statement of the value of the federal gross estate; and [PL 2005, c. 12, Pt. N, §3 (NEW); PL 2005, c. 12, Pt. N, §4 (AFF).]

B. If the personal representative makes an election pursuant to section 4062, subsection 2-B, the personal representative shall make such election on a timely filed return. The return must be in the form prescribed by the assessor and it must be accompanied by a copy of the federal estate tax return, if any, and other supporting documentation that the assessor may require, including documentation related to an election made pursuant to section 4062, subsection 2-B. [PL 2005, c. 12, Pt. N, §3 (NEW); PL 2005, c. 12, Pt. N, §4 (AFF).]

[PL 2005, c. 218, §43 (AMD).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 2003, c. 673, §D6 (AMD). PL 2003, c. 673, §D9 (AFF). PL 2005, c. 12, §N3 (AMD). PL 2005, c. 12, §N4 (AFF). PL 2005, c. 218, §43 (AMD). PL 2011, c. 380, Pt. M, §8 (AMD). PL 2011, c. 380, Pt. M, §10 (AFF).

§4069. Extension of due date for payment of tax

The State Tax Assessor may extend the time for payment of the tax or any part of the tax for a reasonable period of time not to exceed one year from the date fixed for payment and may grant successive extensions. The aggregate of extensions with respect to any estate may not exceed 10 years, unless a longer period is called for by a payment arrangement elected pursuant to section 4069-A. If an extension is granted, the assessor may require the taxpayer: [PL 1999, c. 414, §35 (AMD).]

1. Bond. To give a bond to the Treasurer of State in such amount as the assessor determines necessary; or
[PL 1999, c. 414, §35 (AMD).]

2. Other security. To deposit with the Treasurer of State bonds or other negotiable obligations of governmental entities with an aggregate value sufficient to adequately secure payment of the tax.
[PL 1981, c. 451, §7 (NEW).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1999, c. 414, §35 (AMD).

§4069-A. Extension of time for payment of estate tax when estate consists largely of interest in closely held business

1. Deferred payment arrangement. If the Internal Revenue Service has approved a federal estate tax deferral and installment payment arrangement under Section 6166 of the Code, the personal representative may elect a similar deferred payment arrangement under this section for payment of the tax imposed by this chapter, subject to acceptance by the State Tax Assessor. The assessor may approve a deferral and installment arrangement under similar circumstances and on similar terms with respect to an estate of a decedent dying after December 31, 2002 that does not incur a federal estate tax.
[PL 2003, c. 673, Pt. D, §7 (AMD); PL 2003, c. 673, Pt. D, §9 (AFF).]

2. Time and manner of election; rejection by State Tax Assessor. An election under this section may be made by attaching a payment deferral election in a form prescribed by the assessor to a timely filed Maine estate tax return, in addition to any documentation required by section 4068 and copies of all documentation required by the Internal Revenue Service and submitted in support of a federal payment deferral. Documentation submitted to the assessor must clearly indicate the amount of Maine estate tax and interest to be paid in installments; the number of separate installments; and the due date of each installment payment. The assessor may reject the election. Any election not rejected in writing by the assessor within 60 days after the election is made is considered accepted.
[PL 2003, c. 673, Pt. D, §7 (AMD); PL 2003, c. 673, Pt. D, §9 (AFF).]

3. Interest and penalties. The Maine estate tax deferred under this section is subject to interest pursuant to section 186 until it is paid. Interest on the unpaid tax attributable to a deferral period under this section must be paid annually. Interest on the unpaid tax attributable to a period after the end of the deferral period must be paid at the same time as, and as part of, each installment payment of the tax. A payment of principal or interest under this section that is not made on or before the due date is subject to the penalties provided by section 187-B.
[PL 2011, c. 240, §27 (AMD).]

SECTION HISTORY

PL 1999, c. 414, §36 (NEW). PL 2003, c. 673, §D7 (AMD). PL 2003, c. 673, §D9 (AFF). PL 2011, c. 240, §27 (AMD).

§4070. Extension of time for filing return

1. General. The State Tax Assessor may grant a reasonable extension of time for filing a return required by this chapter, on terms and conditions the assessor may require, as long as payment reasonably estimating the tax due has been made on or before the original payment due date. Except as provided in subsection 2, an extension for filing any return may not exceed 8 months.

[PL 2003, c. 390, §20 (NEW).]

2. Federal extension. When an extension of time is granted within which to file a federal estate tax return, the due date for filing the Maine estate tax return is automatically extended for an equivalent period, as long as payment reasonably estimating the tax due has been made on or before the original payment due date.

[PL 2003, c. 390, §20 (NEW).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1991, c. 546, §28 (AMD). PL 2003, c. 390, §20 (RPR).

§4071. Effect of federal determination

1. Final federal determination. Except as provided in subsection 1-A, a final federal determination as to any of the following issues also determines the same issue for purposes of the tax under this chapter:

A. The inclusion in the federal gross estate of any item of property or interest in property; [PL 1981, c. 451, §7 (NEW).]

B. The allowance of any item claimed as a deduction from the federal gross estate; or [PL 2005, c. 622, §22 (AMD); PL 2005, c. 622, §33 (AFF).]

C. [PL 2005, c. 622, §22 (RP); PL 2005, c. 622, §33 (AFF).]

D. [PL 2005, c. 622, §22 (RP); PL 2005, c. 622, §33 (AFF).]

E. For estates of decedents dying before January 1, 2003, the amount of the federal credit. [PL 2003, c. 673, Pt. D, §8 (AMD); PL 2003, c. 673, Pt. D, §9 (AFF).]

[PL 2007, c. 693, §28 (AMD).]

1-A. State determination of certain estates. For deaths occurring on or after July 1, 2008 but before July 1, 2009, the State Tax Assessor is not bound by a final federal determination under subsection 1 if the assessor determines the issue for purposes of tax under this chapter within 2 years of the date the return was filed or the date the return is due, whichever is later.

For deaths occurring on or after July 1, 2009, the State Tax Assessor is not bound by a final federal determination under subsection 1 if the assessor determines the issue for purposes of tax under this chapter within one year of the date the return was filed or the date the return is due, whichever is later. [PL 2009, c. 213, Pt. E, §5 (AMD); PL 2009, c. 213, Pt. E, §6 (AFF).]

2. Meaning of final determination. For purposes of this section, a final federal determination means:

A. A decision by the United States Tax Court or a judgment, decree or other order by any court of competent jurisdiction which has become final; [PL 1981, c. 451, §7 (NEW).]

B. A final disposition by the United States Secretary of the Treasury or his delegate of a claim for a refund. The disposition shall be deemed to have occurred:

(1) As to items of the claim which are allowed, upon allowance of refund or upon disallowance of the claim by reason of offsetting items; and

(2) As to items of the claim which are disallowed, or as to items applied by the United States Secretary of the Treasury or his delegate as an offset against the claim, upon expiration of the time for instituting suit for refund with respect to those items, unless suit is instituted before

the expiration of such time, or upon filing with the State Tax Assessor, a written statement that suit will not be instituted; [PL 1981, c. 451, §7 (NEW).]

C. A closing agreement made under the Code, Section 7121; [PL 1981, c. 451, §7 (NEW).]

D. An assessment pursuant to a waiver of restrictions on assessment, or a notification in writing issued by the United States Secretary of the Treasury or his delegate that the federal estate tax return has been accepted as filed, unless the personal representative notifies the State Tax Assessor that a claim for refund of federal estate taxes has been or will be filed; or [PL 1981, c. 451, §7 (NEW).]

E. Any assessment pursuant to a compromise entered into by the personal representative and the United States Secretary of the Treasury or his delegate. [PL 1981, c. 451, §7 (NEW).]
[PL 1981, c. 451, §7 (NEW).]

3. Items entering computation of tax. If there has been a final federal determination with respect to a decedent's federal estate tax, any item, but not its value, entering into the computation of the tax is deemed to have been the subject of the final federal determination, whether or not specifically adjusted thereby.

[PL 2005, c. 622, §23 (AMD); PL 2005, c. 622, §33 (AFF).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 2003, c. 390, §21 (AMD). PL 2003, c. 673, §D8 (AMD). PL 2003, c. 673, §D9 (AFF). PL 2005, c. 622, §§22,23 (AMD). PL 2005, c. 622, §33 (AFF). PL 2007, c. 693, §§28, 29 (AMD). PL 2009, c. 213, Pt. E, §5 (AMD). PL 2009, c. 213, Pt. E, §6 (AFF).

§4072. Lien for taxes

All property subject to taxes under this chapter, in whatever form of investment it may happen to be, is charged with a lien for all taxes, interest and penalties that are or may become due on that property. The lien does not attach to any property passing by right of survivorship to a surviving joint tenant who was the decedent's spouse on the decedent's date of death. The lien does not attach to any real or personal property after the property has been sold or disposed of for value by the personal representative, trustee or surviving joint tenant. Upon payment of those taxes, interest and penalties due under this chapter, or upon determination that no tax is due, the State Tax Assessor shall upon request execute a discharge of the tax lien for recording in the appropriate registry or registries of deeds. [PL 2013, c. 331, Pt. A, §2 (AMD); PL 2013, c. 331, Pt. A, §6 (AFF).]

Any lien that attached to real property prior to September 30, 1989 and after the property was sold or disposed of for value by the personal representative, trustee or surviving joint tenant is released by operation of this section. A lien that attaches under this section is released 10 years after the decedent's date of death. [PL 2013, c. 331, Pt. A, §2 (AMD); PL 2013, c. 331, Pt. A, §6 (AFF).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1987, c. 772, §33 (AMD). PL 1989, c. 42, §2 (AMD). PL 1999, c. 38, §1 (AMD). PL 2013, c. 331, Pt. A, §2 (AMD). PL 2013, c. 331, Pt. A, §6 (AFF).

§4073. State Tax Assessor to administer law

(REPEALED)

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1981, c. 706, §28 (RP).

§4074. Authority of State Tax Assessor

The State Tax Assessor shall collect all taxes, interest and penalties provided by chapter 7 and by this chapter and may institute proceedings of any nature necessary or desirable for that purpose,

including proceedings for the removal of personal representatives and trustees who have failed to pay the taxes due from estates in their hands. [PL 2011, c. 1, Pt. EE, §1 (AMD); PL 2011, c. 1, Pt. EE, §4 (AFF).]

The assessor may enforce the collection of taxes secured by bond in a civil action brought on the bond regardless of the fact that another official may be named as obligee in the bond. [PL 2011, c. 1, Pt. EE, §1 (AMD); PL 2011, c. 1, Pt. EE, §4 (AFF).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1981, c. 706, §29 (AMD). PL 1991, c. 846, §35 (AMD). PL 2011, c. 1, Pt. EE, §1 (AMD). PL 2011, c. 1, Pt. EE, §4 (AFF).

§4075. Amount of tax determined

The State Tax Assessor shall determine the amount of tax due and payable upon any estate or part of that estate. If, after determination and certification of the full amount of the tax upon an estate or any interest in or part of an estate, the estate receives or becomes entitled to property in addition to that shown in the estate tax return filed with the assessor or the United States Internal Revenue Service changes any item increasing the estate's liability shown in the Maine estate tax return filed with the assessor, the personal representative shall within 180 days of any receipt, entitlement or change file an amended Maine estate tax return. The assessor shall determine the amount of additional tax and shall certify the amount due, including interest and penalties, to the person by whom the tax is payable. [PL 2011, c. 1, Pt. CC, §2 (AMD); PL 2011, c. 1, Pt. CC, §5 (AFF).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 2007, c. 693, §30 (AMD). PL 2011, c. 1, Pt. CC, §2 (AMD). PL 2011, c. 1, Pt. CC, §5 (AFF).

§4075-A. Authority to make refunds

1. Refund. A personal representative or responsible party otherwise liable for the tax imposed by this chapter may request a refund of any tax imposed by this chapter within 3 years from the date the return was filed or 3 years from the date the tax was paid, whichever period expires later. Every claim for refund must be submitted to the State Tax Assessor in writing and must state the specific grounds upon which the claim is founded. The claimant may in writing request reconsideration regarding the denial of the claim for refund pursuant to section 151.

[PL 2013, c. 331, Pt. C, §16 (AMD); PL 2013, c. 331, Pt. C, §41 (AFF).]

2. Limitation on payment of interest. Interest may not be paid by the assessor on an overpayment of the tax imposed by this chapter that is refunded within 60 days after the date prescribed or permitted by extension of time for filing the return of that tax or within 60 days after the return is filed or within 60 days after a return requesting a refund of the overpayment is filed, whichever is later.

[PL 2011, c. 1, Pt. EE, §2 (AMD); PL 2011, c. 1, Pt. EE, §4 (AFF).]

SECTION HISTORY

PL 1995, c. 281, §23 (NEW). PL 2005, c. 622, §24 (AMD). PL 2011, c. 1, Pt. DD, §2 (AMD). PL 2011, c. 1, Pt. DD, §4 (AFF). PL 2011, c. 1, Pt. EE, §2 (AMD). PL 2011, c. 1, Pt. EE, §4 (AFF). PL 2013, c. 331, Pt. C, §16 (AMD). PL 2013, c. 331, Pt. C, §41 (AFF).

§4076. Preparation of forms and making of rules by State Tax Assessor

(REPEALED)

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1981, c. 706, §30 (RP).

§4077. Appointment of personal representative on probate delay

If, upon the death of a person leaving an estate which may be liable to pay an estate tax, a will is not offered for probate or an application for administration is not made within 6 months after the date of death, or if the personal representative does not qualify within that period, the Probate Court, upon application by the State Tax Assessor, may appoint a personal representative. Nothing may prevent the State Tax Assessor from petitioning for appointment within 6 months after the date of death, if in the opinion of the State Tax Assessor that action is necessary. [PL 1981, c. 451, §7 (NEW).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW).

§4078. Persons liable

Personal representatives, trustees, grantees or donees under nonexempt conveyances or nonexempt gifts made during the life of the grantor or donor and persons to whom beneficial interests shall accrue by survivorship are liable for the taxes imposed by this chapter with interest, as provided, until the taxes are paid. For purposes of this section, the terms "nonexempt conveyances" and "nonexempt gifts" mean any transfer to a person which is includable in the federal gross estate of the decedent and with respect to which no deduction is allowed in computing the federal estate tax liability. [PL 1981, c. 451, §7 (NEW).]

If the tax or any part of the tax is paid or collected out of that part of the estate passing to or in possession of any person other than the personal representative in his capacity as such, that person is entitled to a reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the person whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest in the estate is subject to an equal or prior liability for the payment of tax, debts or other charges against the estate. [PL 1981, c. 451, §7 (NEW).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW).

§4079. Civil action by State; bond

Personal representatives are liable to the State on their administration bonds for all taxes assessable under this chapter and interest on those taxes. Whenever no administration bond is otherwise required, and except as otherwise provided in this section, the Probate Court, notwithstanding any provision of Title 18-C, shall require a bond payable to the court sufficient to secure the payment of all estate taxes and interest conditioned in substance to pay all estate taxes due to the State from the estate of the deceased with interest thereon. A bond to secure the payment of estate taxes is not required when the Probate Court finds that any estate tax due and to become due the State is reasonably secured by the lien upon real estate as provided in this chapter or by any other adequate security. An action for the recovery of estate taxes and interest lies on either of the bonds. [PL 2017, c. 402, Pt. C, §104 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1981, c. 706, §31 (AMD). PL 2007, c. 154, §1 (AMD). PL 2017, c. 402, Pt. C, §104 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November

1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.