

McGuireWoods LLP

State Death Tax Chart

Revised September 22, 2011

This chart is maintained for the McGuire Woods Website and is updated regularly. Any comments on the chart or new developments that should be reflected on the chart may be sent to cfox@mcguirewoods.com.

State	Type of Tax	Effect of EGTRRA on Pick-up Tax and Size of Gross Estate	Legislation Affecting State Death Tax	2011 State Death Tax Threshold
Alabama	None	Tax is tied to federal state death tax credit. AL ST § 40-15-2.		
Alaska	None	Tax is tied to federal state death tax credit. AK ST § 43.31.011.		
Arizona	None	Tax was tied to federal state death tax credit. AZ ST §§ 42-4051; 42-4001(2), (12). On May 8, 2006, Governor Napolitano signed SB 1170 which permanently repeals Arizona's state estate tax.		
Arkansas	None	Tax is tied to federal state death tax credit. AR ST § 26-59-103; 26-59-106; 26-59-109, as amended March, 2003.		
California	None	Tax is tied to federal state death tax credit. CA REV & TAX §§ 13302; 13411.		
Colorado	None	Tax is tied to federal state death tax credit. CO ST §§ 39-23.5-103; 39-23.5-102.		
Connecticut	Separate Estate Tax	As part of the two year budget which became law on September 8,	Connecticut lowered its threshold for its	\$2,000,000

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		<p>2009, the exemption for the separate estate and gift taxes was increased to \$3.5 million, effective January 1, 2010, the tax rates were reduced to a spread of 7.2% to 12%, and effective for decedents dying on or after January 1, 2010, the Connecticut tax is due six months after the date of death. CT ST § 12-391. In May 2011, the threshold was lowered to \$2 million retroactive to January 1, 2011.</p>	<p>state estate tax to \$2, 000,000 retroactive to January 1, 2011 as part of its budget bill.</p>	
Delaware	Pick up Only	<p>For decedents dying after June 30, 2009, and until July 1, 2013, tax is tied to federal state death tax credit in effect on January 1, 2001. DE ST TI 30 §§ 1502(c).</p> <p>The federal deduction for state death taxes is not taken into account in calculating the state tax. DE ST TI 30 §§ 1502(c)(2).</p>	<p>Due to the passage of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 and its interaction with DE ST TI 30 §§ 1502(c), the Delaware Division of Revenue will need to clarify the state's death tax filing threshold.</p>	\$3,500,000 or \$5,000,000
District of Columbia	Pick-up Only	<p>Tax frozen at federal state death tax credit in effect on January 1, 2001.</p> <p>In 2003, tax imposed only on estates exceeding</p>		\$1,000,000

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		<p>EGTRRA applicable exclusion amount. Thereafter, tax imposed on estates exceeding \$1 million.</p> <p>DC CODE §§ 47-3702; 47-3701; approved by Mayor on June 20, 2003; effective retroactively to death occurring on and after January 1, 2003.</p> <p>No separate state QTIP election.</p>		
Florida	None	Tax is tied to federal state death tax credit. FL ST § 198.02; FL CONST. Art. VII, Sec. 5	On January 12, 2011, HB 183, the “Florida Taxpayers Protection Act,” was introduced which seeks to impose a retaliatory estate tax on a US resident decedent who is not a resident of Florida. The tax is imposed upon a nonresident if the nonresident’s domiciliary state imposes an estate or other death tax on property held by a Florida decedent in that state. This is similar to legislation that	

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			was introduced in 2010.	
Georgia	None	Tax is tied to federal state death tax credit. GA ST § 48-12-2.		
Hawaii	Modified Pick-up Tax	<p>Tax was tied to federal state death tax credit. HI ST §§ 236D-3; 236D-2; 236D-B</p> <p>The Hawaii Legislature on April 30, 2010 overrode the Governor's veto of HB 2866 to impose a Hawaii estate tax on residents and also on the Hawaii assets of a non-resident, non US citizen. Apparently, a \$3.5 million exemption applies but the tax does not hit until the estate is at least \$3.6 million. The legislation applies to estates as of May 1, 2010.</p>		\$3,500,000
Idaho	None	Tax is tied to federal state death tax credit. ID ST §§ 14-403; 14-402; 63-3004 (as amended Mar. 2002).		
Illinois	Pick-up Only	<p>On January 13, 2011, Governor Quinn signed Public Act 096-1496 which increased Illinois' individual and corporate income tax rates. Included in the Act was the reinstatement of Illinois' estate tax as of January 1, 2011 with a \$2 million exemption.</p>		\$2,000,000

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		Illinois permits a separate state QTIP election, effective September 8, 2009. 35 ILCS 405/2(b-1).		
Indiana	Inheritance Tax	<p>Pick-up tax is tied to federal state death tax credit. IN ST §§ 6-4.1-11-2; 6-4.1-1-4.</p> <p>Indiana has not decoupled but has a separate inheritance tax (IN ST § 6-4.1-2-1) and recognizes by administrative pronouncement a separate state QTIP election.</p>	SB 148, which was introduced on January 5, 2011, provides for a five-year phase-out of Indiana's inheritance tax between July 1, 2013 and June 30 2018.	
Iowa	Inheritance Tax	<p>Pick-up tax is tied to federal state death tax credit. IA ST § 451.2; 451.13. Effective July 1, 2010, Iowa specifically reenacted its pick-up estate tax for decedents dying after December 31, 2010. Iowa Senate File 2380, reenacting IA ST § 451.2.</p> <p>Iowa has a separate inheritance tax on transfers to remote relatives and third parties.</p>		
Kansas	None	For decedents dying on or after January 1, 2007 and through December 31, 2009, Kansas had enacted a separate stand		

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		alone estate tax. KS ST § 79-15, 203		
Kentucky	Inheritance Tax	<p>Pick-up tax is tied to federal state death tax credit. KT ST § 140.130.</p> <p>Kentucky has not decoupled but has a separate inheritance tax and recognizes by administrative pronouncement a separate state QTIP election.</p>		
Louisiana	None	Pick-up tax is tied to federal state death tax credit. LA R.S. §§ 47:2431; 47:2432; 47:2434.		
Maine	Pick-up Only	<p>For decedents dying after December 31, 2002, pick-up tax is frozen at pre-EGTRRA federal state death tax credit, and imposed on estates exceeding applicable exclusion amount in effect on December 31, 2000 (including scheduled increases under pre-EGTRRA law) (L.D. 1319; March 27, 2003).</p> <p>For estates of decedents dying after December 31, 2002, Sec. 2058 deduction is ignored in computing Maine tax and a separate state QTIP election is permitted. M.R.S. Title 36, Sec.</p>	<p>On June 20, 2011, Maine's governor signed Public Law Chapter 380 into law, which will increase the Maine estate tax exemption to \$2 million in 2013 and beyond. The rates are also changed, effective January 1, 2013, to 0% for Maine estates up to \$2 million, 8% for Maine estates between \$2 million and \$5 million, 10 %</p>	\$1,000,000

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		<p>4062. A 2010 Tax Alert issued by the Maine Revenue Services department limits the amount of the state QTIP to \$2,500,000 (the difference between Maine's \$1,000,000 threshold and the \$3,500,000 federal exemption Maine recognizes in 2010). It is unclear if there will be a limit in 2011 and beyond if the federal exemption exceeds \$3,500,000.</p> <p>Maine also subjects real or tangible property located in Maine that is transferred to a trust, limited liability company or other pass-through entity to tax in a non resident's estate. M.R.S. Title 36, Sec. 4064.</p>	<p>between \$ 5 million and \$8 million and 12% for the excess over \$8 million.</p>	
Maryland	<p>Pick-up Tax</p> <p>Inheritance Tax</p>	<p>Tax is frozen at pre-EGTRRA federal state death tax credit. MD TAX GENERAL § 7-309.</p> <p>Effective January 1, 2004, the threshold for Maryland tax is capped at \$1 million. Senate Bill 508 signed by Governor Erlich on May 26, 2004.</p> <p>Effective January 1, 2005, federal deduction for state death taxes under Sec. 2058 is</p>		\$1,000,000

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		<p>ignored in computing Maryland estate tax, thus eliminating a circular computation. Senate Bill 508 signed by Governor Erlich on May 26, 2004. MD TAX GENERAL §§ 7-304; 7-309, amended May 2004.</p> <p>On May 2, 2006, Governor Erlich signed S.B. 2 which limits the amount of the federal credit used to calculate the Maryland estate tax to 16% of the amount by which the decedent's taxable estate exceeds \$1,000,000, unless the Section 2011 federal state death tax credit is then in effect. It also permits a state QTIP election. MD TAX GENERAL § 7-309</p>		
Massachusetts	Pick-up Only	<p>For decedents dying in 2002, pick-up tax is tied to federal state death tax credit. MA ST 65C §§ 2A.</p> <p>For decedents dying on or after January 1, 2003, pick-up tax is frozen at federal state death tax credit in effect on December 31, 2000. MA ST 65C §§ 2A(a), as amended July 2002.</p> <p>Tax imposed on estates exceeding applicable</p>		\$1,000,000

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		<p>exclusion amount in effect on December 31, 2000 (including scheduled increases under pre-EGTRRA law), even if that amount is below EGTRRA applicable exclusion amount.</p> <p>See, Taxpayer Advisory Bulletin (Dec. 2002), DOR Directive 03-02, Mass. Guide to Estate Taxes (2003) and TIR 02-18 published by Mass. Dept. of Rev.</p> <p>Massachusetts Department of Revenue has issued directive, pursuant to which separate Massachusetts QTIP election can be made when applying state's new estate tax based upon pre-EGTRRA federal state death tax credit.</p>		
Michigan	None	Tax is tied to federal state death tax credit. MI ST §§ 205.232; 205.256		
Minnesota	Pick-up Only	<p>Tax frozen at federal state death tax credit in effect on December 31, 2000, clarifying statute passed May 2002.</p> <p>Tax imposed on estates exceeding federal applicable exclusion amount in effect on December 31, 2000</p>		\$1,000,000

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		(including scheduled increases under pre-EGTRRA law), even if that amount is below EGTRRA applicable exclusion amount. MN ST §§ 291.005; 291.03; instructions for MS Estate Tax Return; MN Revenue Notice 02-16. No separate state QTIP election permitted.		
Mississippi	None	Tax is tied to federal state death tax credit. MS ST § 27-9-5.		
Missouri	None	Tax is tied to federal state death tax credit. MO ST §§ 145.011; 145.091.		
Montana	None	Tax is tied to federal state death tax credit. MT ST § 72-16-904; 72-16-905.		
Nebraska	County Inheritance Tax	Nebraska through 2006 imposed a pick-up tax at the state level. Counties impose and collect a separate inheritance tax. NEB REV ST § 77-2101.01(1).		
Nevada	None	Tax is tied to federal state death tax credit. NV ST Title 32 §§ 375A.025; 375A.100.		
New Hampshire	None	Tax is tied to federal state death tax credit. NH ST §§ 87:1; 87:7.		
New Jersey	Pick-up Tax	For decedents dying after December 31, 2002, pick-up tax frozen at		\$675,000

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	Inheritance Tax	<p>federal state death tax credit in effect on December 31, 2001. NJ ST § 54:38-1</p> <p>Pick-up tax imposed on estates exceeding federal applicable exclusion amount in effect December 31, 2001 (\$675,000), not including scheduled increases under pre-EGTRRA law, even though that amount is below the lowest EGTRRA applicable exclusion amount.</p> <p>The executor has the option of paying the above pick-up tax or a similar tax prescribed by the NJ Dir. Of Div. of Taxn. NJ ST § 54:38-1; approved on July 1, 2002.</p> <p>In <u>Oberhand v. Director, Div. of Tax</u>, 193 N.J. 558 (2008), the retroactive application of New Jersey's decoupled estate tax to the estate of a decedent dying prior to the enactment of the tax was declared "manifestly unjust", where the will included marital formula provisions.</p> <p>In <u>Estate of Stevenson v. Director</u>, 008300-07 (N.J.Tax 2-19-2008) the</p>		

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		<p>NJ Tax Court held that in calculating the New Jersey estate tax where a marital disposition was burdened with estate tax, creating an interrelated computation, the marital deduction must be reduced not only by the actual NJ estate tax, but also by the hypothetical federal estate tax that would have been payable if the decedent had died in 2001.</p> <p>A QTIP election for NJ estate tax purposes is only allowed to the extent permitted to reduce federal estate tax.</p>		
New Mexico	None	<p>Tax is tied to federal state death tax credit. NM ST §§ 7-7-2; 7-7-3.</p>		
New York	Pick-up Only	<p>Tax frozen at federal state death tax credit in effect on July 22, 1998. NY TAX § 951.</p> <p>In 2002 and 2003, tax imposed only on estates exceeding EGTRRA applicable exclusion amount. Thereafter, tax imposed on estates exceeding \$1 million. NY TAX §§ 952; 951; Instructions for NY Estate Tax Return.</p> <p>Governor signed S. 6060 in 2004 which applies</p>		\$1,000,000

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		<p>New York Estate Tax on a <i>pro rata</i> basis to non-resident decedents with property subject to New York Estate Tax.</p> <p>On March 16, 2010, the New York Office of Tax Policy Analysis, Taxpayer Guidance Division issued a notice permitting a separate state QTIP election when no federal estate tax return is required to be filed such as in 2010 when there is no estate tax or when the value of the gross estate is too low to require the filing of a federal return. See TSB-M-10(1)M.</p> <p>Advisory Opinion (TSB-A-08(1)M (October 24, 2008) provides that an interest in an S Corporation owned by a non-resident and containing a condominium in New York is an intangible asset as long as the S Corporation has a real business purpose. If the S Corporation has no business purpose, it appears that New York would look through the S Corporation and subject the condominium to New York estate tax in the estate of the non-</p>		

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		resident. There would likely be no business purpose if the sole reason for forming the S Corporation was to own assets.		
North Carolina	Pick-up Only	<p>Tax is imposed only on estates exceeding applicable exclusion amount. Amount of tax is Tax is tied to federal state death tax credit in effect on December 31, 2001. NC ST §§ 105-32.2</p> <p>On August 2, 2004, Governor Easley signed Session Law 04-170, which adds to the tax base the amount of the federal deduction for taxes paid under § 2058. This eliminated an interrelated calculation of the North Carolina estate tax. NC ST §§ 105-32.2; 105-32.1; 105-228.90.</p> <p>No separate state QTIP election permitted.</p>		\$5,000,000
North Dakota	None	Tax is tied to federal state death tax credit. ND ST § 57-37.1-04		
Ohio	Separate state tax	Governor Taft signed the budget bill, 2005 HB 66, repealing the Ohio estate (sponge) tax prospectively and granting credit for it retroactively. This was effective June 30, 2005	On June 30, 2011, Governor Kasich signed HB 153, the biannual budget bill, which contains a repeal of the	\$338,333

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		<p>and killed the sponge tax.</p> <p>Separate state estate tax rates may be found at OH ST § 5731.02.</p> <p>Ohio permits a separate QTIP for its state tax. OH ST § 5731.15(B)</p>	Ohio state estate tax effective January 1, 2013.	
Oklahoma	None	<p>Tax is tied to federal state death tax credit. OK ST Title 68 § 804</p> <p>The separate estate tax was phased out as of January 1, 2010.</p>		
Oregon	Pick-up Only	<p>Tax is tied to federal state death tax credit. OR ST § 118.010</p> <p>Previously, tax was frozen at the federal state death tax credit in effect December 31, 2001, pursuant to HB 3072, enacted on September 24, 2003.</p> <p>For 2002, tax imposed only on estates exceeding EGTRRA applicable exclusion amount. For decedents dying on or after January 1, 2003, tax imposed on estates exceeding applicable exclusion amount in effect on December 31, 2000 (including scheduled increases under pre-EGTRRA law) even if that amount is below EGTRRA</p>	On June 28, 2011, Oregon's governor signed HB 2541 which replaces Oregon's pick-up tax with a stand-alone estate tax effective January 1, 2012. The new tax has a \$1 million threshold with rates increasing from ten percent to sixteen percent between \$1 million and \$9.5 million. Determination of the estate for Oregon estate tax purposes is based upon the federal taxable estate with	\$1,000,000

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		<p>applicable exclusion amount. The new law permits a separate QTIP election for state purposes. OR ST § 118.010; Oregon Inheritance Tax Return; Inheritance Tax Advisory as of 11/4/03 from OR Dept. of Revenue.</p> <p>On July 31, 2004, Oregon Department of Revenue adopted rule amendments with respect to the calculation of the tax.</p> <p>Oregon also permits a separate state marital election for a trust of which the surviving spouse is the sole discretionary beneficiary. This is referred to as special marital property. OR. ST. §§ 118.005 to 118.840</p>	adjustments.	
Pennsylvania	Inheritance Tax	<p>Tax is tied to the federal state death tax credit to the extent that the available federal state death tax credit exceeds the state inheritance tax. PA ST T. 72 P.S. § 9117 amended December 23, 2003.</p> <p>Pennsylvania had decoupled its pick-up tax in 2002, but has now recoupled retroactively.</p>		

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		<p>The recoupling does not affect the Pennsylvania inheritance tax which is independent of the federal state death tax credit.</p> <p>Pennsylvania recognizes a state QTIP election.</p>		
Rhode Island	Pick-up Only	<p>Tax frozen at federal state death tax credit in effect on January 1, 2001, with certain adjustments (see below). RI ST § 44-22-1.1.</p> <p>Rhode Island recognized a separate state QTIP election in the State's Tax Division Ruling Request No. 2003-03.</p> <p>Rhode Island's Governor signed into law HB 5983 on June 30, 2009, effective for deaths occurring on or after January 1, 2010, an increase in the amount exempt from Rhode Island estate tax from \$675,000, to \$850,000, with annual adjustments beginning for deaths occurring on or after January 1, 2011 based on "the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U). . . rounded up to the nearest five dollar (\$5.00) increment." RI ST § 44-</p>		\$859,350

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		22-1.1.		
South Carolina	None	Tax is tied to federal state death tax credit. SC ST §§ 12-16-510; 12-16-20 and 12-6-40, amended in 2002.		
South Dakota	None	Tax is tied to federal state death tax credit. SD ST §§ 10-40A-3; 10-40A-1 (as amended Feb. 2002).		
Tennessee	Inheritance Tax	Pick-up tax is tied to federal state death tax credit. TN ST §§ 67-8-202; 67-8-203. Tennessee has not decoupled, but has a separate inheritance tax and recognizes by administrative pronouncement a separate state QTIP election.		
Texas	None	Tax is tied to federal state death tax credit. TX TAX §§ 211.001; 211.003; 211.051		
Utah	None	Tax is tied to federal state death tax credit. UT ST § 59-11-102; 59-11-103.		
Vermont	Modified Pick-up	In 2010, Vermont increased the estate tax exemption threshold from \$2,000,000 to \$2,750,000 for decedents dying January 1, 2011. As of January 1, 2012 the exclusion is scheduled to		\$2,750,000

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		<p>equal the federal estate tax applicable exclusion, so long as the FET exclusion is not less than \$2,000,000 and not more than \$3,500,000. VT ST T. 32 § 7442a.</p> <p>Previously the estate tax was frozen at federal state death tax credit in effect on January 1, 2001. VT ST T. 32 §§ 7402(8), 7442a, 7475, amended on June 21, 2002.</p> <p>Threshold was limited to \$2,000,000 in 2009 when the legislature overrode the Governor's veto of H. 442.</p> <p>No separate state QTIP election permitted.</p>		
Virginia	None	<p>Tax is tied to federal state death tax credit. VA ST §§ 58.1-901; 58.1-902.</p> <p>The Virginia tax was temporarily repealed effective July 1, 2007. Previously, the tax was frozen at federal state death tax credit in effect on January 1, 1978. Tax was imposed only on estates exceeding EGTRRA federal applicable exclusion amount. VA ST §§ 58.1-901; 58.1-902.</p>		

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Washington	Separate Estate Tax	<p>On February 3, 2005, Washington State Supreme Court unanimously held that Washington's state death tax was unconstitutional. Tax was tied to the current federal state death tax credit, thus reducing the tax for the years 2002 - 2004 and eliminating it for the years 2005 - 2010. <u>Hemphill v. State Department of Revenue</u> 2005 WL 240940 (Wash. 2005).</p> <p>In response to <u>Hemphill</u>, the Washington State Senate on April 19 and the Washington House on April 22, 20, by narrow majorities, passed a stand-alone state estate tax with rates ranging from 10% to 19%, a \$1.5 million exemption in 2005 and \$2 million thereafter, and a deduction for farms for which a Sec. 2032A election could have been taken (regardless of whether the election is made). The Governor signed the legislation. WA ST §§ 83.100.040; 83.100.020.</p> <p>Washington voters defeated a referendum to repeal the Washington</p>		\$2,000,000

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		<p>estate tax in the November 2006 elections.</p> <p>Washington permits a separate state QTIP election. WA ST §83.100.047.</p>		
West Virginia	None	Tax is tied to federal state death tax credit. WV § 11-11-3.		
Wisconsin	None	<p>Tax is tied to federal state death tax credit. WI ST § 72.01(11m).</p> <p>For deaths occurring after September 30, 2002, and before January 1, 2008, tax was frozen at federal state death tax credit in effect on December 31, 2000 and was imposed on estates exceeding federal applicable exclusion amount in effect on December 31, 2000 (\$675,000), not including scheduled increases under pre-EGTRRA law, even though that amount is below the lowest EGTRRA applicable exclusion amount. Thereafter, tax imposed only on estates exceeding EGTRRA federal applicable exclusion amount. WI ST §§ 72.01; 72.02, amended in 2001; WI Dept. of Revenue website.</p>		

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		<p>On April 15, 2004, the Wisconsin governor signed 2003 Wis. Act 258, which provides that Wisconsin will not impose an estate tax with respect to the intangible personal property of a non-resident decedent that has a taxable situs in Wisconsin even if the non-resident's state of domicile does not impose a death tax. Previously, Wisconsin would impose an estate tax with respect to the intangible personal property of a non-resident decedent that had a taxable situs in Wisconsin if the state of domicile of the non-resident had no state death tax.</p>		
Wyoming	None	<p>Tax is tied to federal state death tax credit. WY ST §§ 39-19-103; 39-19-104.</p>		

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