

ESTATE TAX

STATUTORY PROVISION: Title 30, Delaware Code, Chapter 15.

COLLECTION/ADMINISTRATIVE AGENCY: The Department of Finance, Division of Revenue administers the estate tax.

GENERAL LIABILITY: The State of Delaware imposes an estate tax on the value of an individual's estate at the time of death. Delaware's estate tax applies as follows:

Resident Decedents

Tax Base: Delaware's tax is based on the federal estate tax. The calculation that determines the taxable estate for Delaware purposes begins with the value of the decedent's federal taxable estate calculated under the provisions of the federal estate tax laws as in effect on the date of the decedent's death.

This amount is then adjusted based on the application of Delaware modifications, including a reduction for the value of agricultural land, and agricultural buildings on such land, enrolled in farmland assessment or farmland preservation programs to the extent such property was included in the federal taxable estate. The result of this calculation is known as the decedent's "modified federal taxable estate."

Delaware's taxable estate is the decedent's modified federal taxable estate, reduced, but not below zero, by the applicable exclusion amount set forth in § 2010(c) of the Internal Revenue Code (26 U.S.C. § 2010(c)) as in effect on the date of the decedent's death. (For 2014 the applicable exclusion is \$5,340,000.)

Tax Rates: The amount of tax shall be determined pursuant to the table set forth below:

The tax shall equal the sum of the figures calculated pursuant to columns (C) and (D)			
If the Delaware taxable estate is			
Over (A)	But not over (B)	Tax on lower amount (C)	Plus this % of the excess amount (D)
\$0	\$40,000	\$0	0
\$40,000	\$90,000	\$0	0.8
\$90,000	\$140,000	\$400	1.6
\$140,000	\$240,000	\$1,200	2.4
\$240,000	\$440,000	\$3,600	3.2
\$440,000	\$640,000	\$10,000	4.0
\$640,000	\$840,000	\$18,000	4.8
\$840,000	\$1,040,000	\$27,600	5.6
\$1,040,000	\$1,540,000	\$38,800	6.4
\$1,540,000	\$2,040,000	\$70,800	7.2
\$2,040,000	\$2,540,000	\$106,800	8.0
\$2,540,000	\$3,040,000	\$146,800	8.8
\$3,040,000	\$3,540,000	\$190,800	9.6
\$3,540,000	\$4,040,000	\$238,800	10.4
\$4,040,000	\$5,040,000	\$290,800	11.2
\$5,040,000	\$6,040,000	\$402,800	12.0
\$6,040,000	\$7,040,000	\$522,800	12.8
\$7,040,000	\$8,040,000	\$650,800	13.6
\$8,040,000	\$9,040,000	\$786,800	14.4
\$9,040,000	\$10,040,000	\$930,800	15.2
\$10,040,000		\$1,082,800	16.0

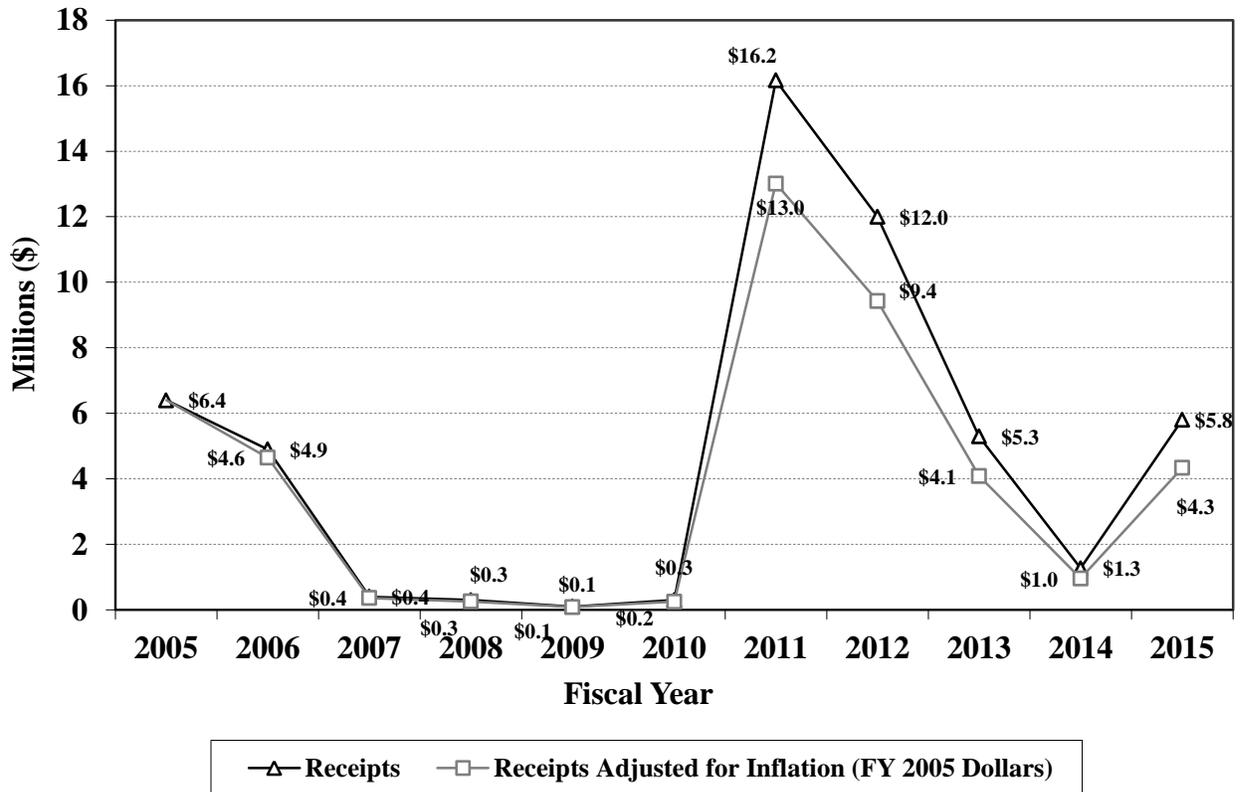
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Non-Resident Decedents

The estate of every non-resident is taxed based on the pro-rated share of their taxable estate attributable to real and tangible personal property in Delaware at the time of their death. A special lien is imposed upon the real and tangible personal property of a non-resident until such time as the estate tax has been paid.

TAX RECEIPTS

Inheritance and Estate Taxes



LEGISLATIVE HISTORY

Approved Date	Effective Date	Description of Changes
7/1/98	1/1/99	Repealed the inheritance tax. Revised the estate tax to conform to the repeal of the inheritance tax by imposing an estate tax on the estates of resident and nonresident persons who have estates large enough to be required to file a federal estate tax return. Allowed for a special lien upon property until the estate tax is paid (71 Del. Laws c 353, HB 771).
7/1/99	1/1/99	Provided that, for resident decedents, intangible property is considered Delaware property for estate tax purposes (72 Del. Laws 176; SB 216).
6/23/00	6/23/00	Provided a means to clear title to jointly owned real estate when a formal probate estate is not required (72 Del. Laws 342; SB 314).

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Approved Date	Effective Date	<u>Description of Changes</u>
6/07/01	1/1/02	Federal tax cut reduced state credit by 25% in 2002, 50% in 2003, 75% in 2004, and implements a complete phase-out in CY 2005. Estate exemption increased to \$1 million in 2002, \$1.5 million in 2004, \$2 million in 2006, and \$3.5 million in 2009. Federal tax rates are reduced through 2010, at which time there will be a complete elimination of the estate tax (HR 1836, Economic Growth and Tax Relief Reconciliation Act of 2001).
7/12/05	7/12/05	Eliminated: (1) the requirement to file a Delaware estate tax return for dates on which the federal estate tax law does not allow a credit for state death tax (currently 2005 through 2010); (2) the special lien on the gross estate tax for decedents dying on a date on which the federal estate tax does not allow credit for state death taxes paid; and (3) the requirement of filing an affidavit, that no estate tax is required, with the Register of Wills for decedents dying on a date on which the federal estate tax does not allow credit for state death taxes paid (75 Del. Laws c. 198; SB 227).
7/10/06	1/1/07	Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c. 411; HB 397).
7/1/09	7/1/09	Effectively reinstated Delaware's estate tax with a sunset scheduled for four (4) years from the effective date. (77 Del. Laws c. 85; HB 291 aab HA2).
3/28/13	3/28/13	Eliminated sunset scheduled for July 1, 2013. (79 Del. Laws c. 11; HB 51).
8/5/13	7/1/13	Clarified Delaware estate tax by eliminating references to outdated provisions and structuring Delaware law based upon updated federal statute (79 Del. Laws c. 162; SB 149).

FILING PROCEDURES: The estate tax return is due within nine (9) months after the date of decedent's death. The tax is due on or before the date fixed for filing the return determined without regard to any extension of time for the filing of the return. The Division of Revenue may, upon written request, extend the time for filing the return and may extend time for payment of the tax for a reasonable period from the due date. If the time for filing the federal estate tax return is extended, the time for filing the Delaware return shall be extended automatically for a like period, provided that an executed copy of such extension grant is furnished to the Division of Revenue before or with the filing of the return. During years in which the federal estate tax law does not permit a credit for state death tax, all filing requirements shall be waived.

PAYMENT DATES: Payments must be made no later than 9 months after the death of the decedent.

PENALTIES AND INTEREST: The law requires payment of interest at the rate of 1/2% per month (or fraction thereof) for delinquent taxes, assessed from the due date to date of payment. An additional penalty of 5% per month, to a maximum of 50% of the amount of tax due, is also available.

Failure to pay the amount of tax due will result in a failure-to-pay penalty of 1% per month, up to a maximum of 25% of the amount of tax unpaid. The Division of Revenue may apply a negligence penalty of 20% of the amount of the deficiency, or a penalty of 40% if such deficiency is due to a substantial understatement of the tax. A fraud penalty of 75% where any part of the deficiency is due to fraud may also be imposed.