



Summary of Estate Tax Legislation Enacted in 2019

New York qualified terminable interest property (QTIP) election

The Tax Law now requires a New York QTIP election to be made directly on a New York estate tax return for decedents dying on or after April 1, 2019. Any election made under this subsection is irrevocable.

In addition, the value of any QTIP for which a New York marital deduction was previously allowed must be included in the surviving spouse's New York gross estate, whether the QTIP election was made on the transferring spouse's New York estate tax return or on a federal **pro forma** return if an actual federal return was not otherwise required.

[Part F of Chapter 59 of the Laws of 2019; Tax Law §§ 954(a)(4) and 955(c)]

Gift addback

The requirement to add back taxable gifts has been extended to apply to estates of decedents who died on or after January 16, 2019 and before January 1, 2026. This addback requirement applies to any taxable gift under Internal Revenue Code (IRC) § 2503 that was made during the preceding three-year period ending on the decedent's date of death and that is not already included in the decedent's federal gross estate, **except** any gift made:

- when the decedent was not a resident of New York State;
- before April 1, 2014;
- between January 1, 2019 and January 15, 2019; or
- that is real or tangible personal property located outside New York State at the time the gift was made.

[Part F of Chapter 59 of the Laws of 2019; Tax Law § 954(a)(3)]

Relief provisions regarding the disposition of estates to surviving spouses who are not U.S. citizens

The relief provisions for the disposition of an estate when the surviving spouse is not a U.S. citizen were extended and are now scheduled to expire on July 1, 2022. The relief provisions are described in [TSB-M-14\(5\)M](#), *2013 Legislation Amending the New York State Estate Tax*.

[Chapter 89 of the Laws of 2019]

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.