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District of Columbia Code

Redlined to Show Newly Enacted Changes

§47-3701 Definitions

For the purpose of this chapter, the term:

- (1) "Council" means the Council of the District of Columbia.
- (2) "Decedent" means a deceased person who died on or after April 1, 1987.
- (3) "District" means the District of Columbia.
- (3A) "Domestic partner" shall have the same meaning as provided in § 32-701(3).
- (4) "Federal credit" means:
 - (A) For a decedent whose death occurs on or after April 1, 1987, but prior to January 1, 2002, the maximum amount of credit for state death taxes allowable by section 2011 of the United States Internal Revenue Code of 1954, approved August 6, 1954 (68A Stat. 3; 26 U.S.C. § 1 *et seq.*), as it existed on January 1, 1986.
 - (B) For a decedent whose death occurs on or after January 1, 2002:
 - (i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;
 - (ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$220,550; and
 - (iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$675,000.
 - (C) For a decedent ~~dying whose death occurs on or after~~ December 31, 2002, January 1, 2003 but before January 1, 2016:
 - (i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;
 - (ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$345,800; and

(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$1 million.

(5) "Gross estate" means:

(A) For a decedent whose death occurs prior to January 1, 2008, the meaning defined in the Internal Revenue Code.

(B) For a decedent whose death occurs on or subsequent to January 1, 2008, the meaning defined in the Internal Revenue Code, except that for the purpose of calculating District estate taxes, gross estate shall be calculated as if federal estate tax law recognized a domestic partner in the same manner as a spouse.

(6) "Internal Revenue Code" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*), in effect for federal estate tax purposes on January 1, 2001, unless a different meaning is clearly required by the provisions of this chapter: provided that if the federal estate tax is not in effect at the time of the decedent's death, it means the Internal Revenue Code as in effect immediately before the federal estate tax ceased to be in effect.

(7) "Mayor" means the Mayor of the District of Columbia.

(8) "Nonresident" means a decedent who was domiciled outside the District at his death.

(9) "Personal representative" means the personal representative or other person appointed by the court to administer the property of the decedent. If there is no personal representative or other person appointed, qualified, and acting within the District, then any person in actual or constructive possession of any property having a situs in the District that is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the District estate tax due with respect to the property.

(10) "Resident" means a decedent who was domiciled in the District at his or her death.

(11) "State" means any state, territory, or possession of the United States and the District.

(12) "Taxable estate" means:

(A) For a decedent whose death occurs prior to January 1, 2008, the meaning defined in section 2501 of the Internal Revenue Code of 1954.

(B) For a decedent dying after December 31, 2007, but before January 1, 2015, whose death occurs on or subsequent to January 1, 2008, the meaning defined in section ~~2055~~2051 of the Internal Revenue Code of 1954, except that for the purpose of calculating District estate taxes, taxable estate shall be calculated as if federal estate tax law recognized a domestic partner in the same manner as a spouse.

(C) For a decedent dying after December 31, 2014, the meaning defined in Section 2051 of the Internal Revenue Code, but without reduction for the deduction provided in section 2058 of the Internal Revenue Code, and calculated as if the federal estate tax recognized a domestic partner in the same manner as a spouse.s.

~~(13) “Value” means value as finally determined for federal estate tax purposes under the Internal Revenue Code of 1954.~~

(14) “Taxable Situs” means with regard to:

(A) Real property, the place where the property is situated;

(B) Tangible personal property, the place where the property is customarily located at the time of the decedent’s death; and

(C) Intangible personal property, the domicile of the decedent at the time of the decedent’s death; provided, that intangible personal property used in a trade or business in the District shall have a taxable situs in the District regardless of the domicile of the owner.

(15) “Value means value as finally determined for federal estate tax purposes, or otherwise defined under the Internal Revenue Code.

(16)(A) “Zero bracket amount” means, subject to available funding and in accordance with § 47-181:

(i) \$2 million; or

(ii) \$5 million increased by an amount equal to \$5 million multiplied by the cost of living adjustment for the calendar year.

(B) For the purposes of this paragraph, the term:

(i) “Cost-of-living adjustment” means for a calendar year the percentage (if any) by which the CPI for the preceding calendar year exceeds the CPI for the calendar year 2010; provided, that for any amount as adjusted under the preceding sentence that is not a multiple of \$10,000, the amount shall be rounded to the nearest \$10,000.

(ii) “CPI” means the consumer price index as defined in sections 1(f)(4) and (5) of the Internal Revenue Code.

§ 47-3702 Tax on transfer of taxable estate of residents; amounts; credit; property of resident defined

(a) A tax in the amount of the federal credit is imposed on the transfer of the taxable estate having its taxable situs in the District of every resident decedent dying after March 31.

1987, but before January 1, 2015, on or after April 1, 1987, subject, where applicable, to the credit provided for in subsection (b) of this section.

(a-1) A tax is imposed on the taxable estate of every resident decedent dying after December 31, 2015 as follows:

(1) The rate of tax shall be 16%; except, that if the taxable estate does not exceed the zero bracket amount the tax rate shall be 0%, and if the taxable estate exceeds the zero bracket amount the following tax rates shall be applied to the incremental values of the taxable estate:

(A) The rate of tax on the taxable estate over \$2 million but not over \$2.5 million shall be 8.0%;

(B) The rate of tax on the taxable estate over \$2.5 million but not over \$3 million shall be 8.8%;

(C) The rate of tax on the taxable estate over \$3 million but not over \$3.5 million shall be 9.6%;

(D) The rate of tax on the taxable estate over \$3.5 million but not exceeding \$4 million shall be 10.4%;

(E) The rate of tax on the taxable estate over \$4 million but not exceeding \$5 million shall be 11.2%;

(F) The rate of tax on the taxable estate over \$5 million but not exceeding \$6 million shall be 12%;

(G) The rate of tax on the taxable estate over \$6 million but not exceeding \$7 million shall be 12.8%;

(H) The rate of tax on the taxable estate over \$7 million but not exceeding \$8 million shall be 13.6%;

(I) The rate of tax on the taxable estate over \$8 million but not exceeding \$9 million shall be 14.4%; and

(J) The rate of tax on the taxable estate over \$9 million but not exceeding \$10 million shall be 15.2%.

(2) If any real or tangible personal property of a resident decedent has a taxable situs outside of the District, the amount of the tax due under this section shall be reduced by the proportion that the value of the real or tangible property outside the District bears to the amount of the gross estate of the resident decedent.

(b) For a decedent dying before January 1, 2015, if any real or tangible personal property of a resident is located outside the District and subject to a death tax imposed by another state for which a credit is allowed under § 2011 of the Internal Revenue Code of 1954, the amount of tax due under this section shall be credited with the lesser of:

(1) The amount of the death tax paid the other state and that qualifies for credit against the federal estate tax; or

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4. (2) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross estate over which another state or states have jurisdiction to the same extent that the District would exert jurisdiction under this chapter with respect to the residents of the other state or states and the denominator of which is the value of the decedent's gross estate.

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§ 47-3703. Tax on transfer of taxable estate of nonresidents; property of nonresident defined.

(a) A tax in an amount computed as provided in this section is imposed on the transfer of every nonresident's taxable estate having its taxable situs in the District.

(b) For every nonresident decedent dying before January 1, 2016, the tax shall be an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross estate over which the District has jurisdiction for estate tax purposes and the denominator of which is the value of the decedent's gross estate.

(b-1) For every nonresident decedent dying after December 31, 2015, the tax shall be an amount computed by multiplying the tax determined under §47-3702(a-1) by a fraction, the numerator of which shall be the value of that part of the gross estate that has its taxable situs in the District and the denominator of which shall be the value of the resident decedent's gross estate.

~~(c) For the purposes of this section, taxable situs means in regard to:~~

~~(1) Real property—the place where the property is situated;~~

~~(2) Tangible personal property—the place where the property is customarily located at the time of the decedent's death; and~~

~~(3) Intangible personal property—the domicile of the decedent at the time of the decedent's death, except that intangible personal property used in a trade or business in the District shall have a taxable situs in the District regardless of the domicile of the owner.~~

~~(c) For the purposes of this section, taxable situs means in regard to:~~

~~(1) Real property—the place where the property is situated;~~

~~(2) Tangible personal property—the place where the property is customarily located at the time of the decedent's death; and~~

~~(3) Intangible personal property—the domicile of the decedent at the time of the decedent's death, except that intangible personal property used in a trade or business in the District shall have a taxable situs in the District regardless of the domicile of the owner.~~

§ 47-3705. Filing returns; payment of tax due.

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(a) (1) The personal representative of every estate subject to the tax imposed by this chapter shall file with the Mayor, within 10 months after the death of the decedent:

(A) A return for the tax due under this chapter; and

(B) A copy of the federal estate tax return, if any.

(2) A personal representative shall not be required to file a return if the gross estate does not exceed \$1 million or the zero bracket amount, whichever is higher. ~~return shall not be required to be filed if the gross estate does not exceed \$1 million.~~

(b) If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by subsection (a) of this section shall be similarly extended until 30 days after the end of the time period granted in the extension of time for the federal estate tax return. Upon obtaining an extension of time for filing the federal estate tax return, the personal representative shall provide the Mayor with a copy of the extension of time.

(c) The tax due under this chapter shall be paid by the personal representative to the Mayor no later than the date when the return covering this tax is required to be filed under subsection (a) or (b) of this section.

(d) Whenever the Mayor determines that the tax due under this chapter has been overpaid, the estate shall be entitled to a refund of the amount of the overpayment. An application for the refund shall be made to the Mayor within 3 years from the date of payment.