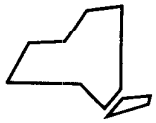
New York State Department of Taxation and Finance



Computation of Estate Tax Credit For Closely Held Businesses

For estates of decedents dying after June 9, 1994

ET-416
(8/94)

Attach this completed form to the original or amended Form ET-90.

Estate of	Social security number	Date of death

1 Value of qualifying property *(not to exceed $15 million)*	1	
2 Percentage allowed. . . . 5% (.05)	2	.05
3 Allowable credit *(multiply line 1 by the decimal on line 2; enter here and on Form ET-90, page 1, line 15b)*	3	

Instructions

Use this form to claim credit against tax imposed under section 952(a) of Article 26 on the transfer of qualifying property used in certain closely held businesses.

The credit is computed in accordance with subsections (a), (b), (c), (d) and (e) of section 958-b of the New York State Tax Law.

Attach a copy of this completed form to Form ET-90, *New York State Estate Tax Return.*

Line 1 — The value reported means the valuation of qualified property as calculated under section 958-b of the Tax Law.

Line 3 — Enter this amount on Form ET-90, *New York State Estate Tax Return*. The maximum allowable credit is $750,000.

General Information

Article 26, section 958-b of the New York State Tax Law provides for a credit against the tax imposed under section 952, subsection (a) of this Article. The credit is equal to 5% of the first 15 million dollars in value of qualified property that was owned by the decedent and that has vested in one or more qualified heirs.

Definitions

Qualified heir - with respect to any property, a member of the decedent's family who acquired the property (or to whom the property passed) from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his family, that member shall thereafter be treated as the qualified heir with respect to that interest.

Member of family - with respect to any individual only:

- an ancestor of the individual; **or**
- the spouse of the individual; **or**
- a lineal descendant of the individual, of the individual's spouse, or of a parent of the individual; **or**
- the spouse of any lineal descendant.

Note: The legally adlopted child of an individual shall be treated as the child of the individual by blood.

Qualified property - an interest in a closely held business as defined in subsections (b) and (c) of section 6166 of the IRC, to the extent included in the New York gross estate. An interest in a closely held business included in determining the New York gross estate of a decedent is not qualified property unless the estate qualifies for installment payments of tax under section 6166 of the IRC, as applied to New York Law by section 997 of the Tax Law. Qualified property does not include property that has been taken into account in computing the marital deduction.

Interest in a closely held business

- an interest as a proprietor in a trade or business carried on as a proprietorship; **or**
- an interest as a partner in a partnership carrying on a trade or business if:
  - a) 20% or more of the total capital interest in the partnership is included in determining the gross estate of the decedent; or
  - b) the partnership had 15 or fewer partners; **or**
- stock in a corporation carrying on a trade or business if:
  - a) 20% or more in value of the voting stock of the corporation is included in determining the gross estate of the decedent, or
  - b) the corporation had 15 or fewer shareholders.

Qualified replacement property

- any interest in a closely-held business, as defined in section 6166(b) of the federal Internal Revenue Code, except:
  - a) with regard to an interest in a partnership, the requirement that at least 20% of the capital interest of the partnership be included in the federal gross estate of the decedent is disregarded; and
  - b) with regard to stock in a corporation, the requirement that at least 20% of the value of the voting stock of the corporation be included in the federal gross estate of the decedent is disregarded; **or**
- money or other property attributable to any interest in a closely-held business, acquired by a qualified heir to replace qualified property (or previously acquired qualified property); **or**
- money or other property attributable to qualified property withdrawn from the closely-held business (or to previously acquired replacement property), when the interest or property is acquired by the qualified heir within 6 months of:
  - a) the distribution, sale, exchange, or other disposition of the qualified property (or previously acquired qualified replacement property); or
  - b) the withdrawal of the money or other property attributable to the qualified property (or previously acquired qualified replacement property).

Tax treatment of dispositions of qualified property

Section 958-b(c) provides that, if within 3 years from the date of the decedent's death and before the death of the qualified heir, an acceleration of payment of estate tax, pursuant to section 6166(g) of the federal Internal Revenue Code, as conformed to New York Tax Law by section 997, occurs, or would have occurred if an extension of time for payment of estate tax had been elected, and the aggregate value of the interests so distributed, sold, exchanged or otherwise disposed of and such money and other property so withdrawn, after subtracting the aggregate value, if any, of **qualified replacement property**, equals or exceeds 50% of the value of the decedent's interest in a closely-held business as of the date of distribution, etc., a tax will be due, equal to the amount of credit allowed for such interest, multiplied by the number of months remaining between the date of distribution and 36 months from the decedent's date of death, and divided by 36. In addition, interest computed from the date of death, will be due on the additional amount. The qualified heir shall be personnally liable for the additional tax imposed with respect to his or her interest unless such heir has furnished a security bond in such amount and for such period as required.

Indefeasibly vested interests

For purposes of subsection (a) of section 958-b, property vested in an individual shall be deemed indefeasibly vested notwithstanding that it may be divested, or the interest therein may terminate or fail by reason of the individual's death either within six months after the decedent's death or through a common disaster resulting in both of their deaths, provided that such divestment, termination or failure does not in fact occur.

Valuation of interest in property

The value of all interests eligible for credit under subsection (a) of section 958-b is the value at which the interests are includable in the New York gross estate.

Privacy Notification

Our authority to require and maintain this personal information, including social security numbers, is found in section 171, subdivisions First and Fourteenth, subsection (a) of section 977 and subsection (c) of section 994 of the Tax Law.

We will use this information primarily to determine New York State estate tax liabilities under Article 26 of the Tax Law. We will also use it for administrative purposes and for any other purpose authorized by law.

Your failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law or the Penal Law.

This information will be maintained by the Director Data Management Services Bureau, NYS Tax Department, Building 8 Room 905, W A Harriman Campus, Albany NY 12227; telephone (from New York State only) 1 800 CALL TAX (1 800 225-5829); from outside New York State, call (518) 438-8581.