

23 VAC 10-300. ESTATE TAX

~~23 VAC 10-300-10. Title.~~

~~A. Preface.~~

~~1. Chapter 9 of Title 58.1 of the Code of Virginia, consisting of §§58.1-900 through 58.1-938, imposes the Virginia estate tax. An estate tax is a tax on the decedent's privilege of transferring his property upon his death, based on the value of the property transferred. The tax is applicable to transfers of the Virginia gross estate of decedents dying on or after January 1, 1980.~~

~~With respect to transfers in inheritance from decedents dying before January 1, 1980 and for transfers in gift made before January 1, 1980, Virginia imposed inheritance and gift taxes levied on the shares of the beneficiaries of the property of the decedent or donor. Virginia first enacted an inheritance tax in 1844 and the tax was continuous (except for the years 1884 to 1896) until terminated for decedents dying on and after January 1, 1980.~~

~~Chapter 838 of the 1978 Acts of Assembly replaced the inheritance and gift taxes with a Virginia estate tax in an amount equal to the amount of the state death tax credit allowable under §2011 of the Internal Revenue Code. However, Chapter 838 further provided that the inheritance and gift tax laws would remain in force upon estates of decedents dying prior to January 1, 1980 and for gifts made prior to January 1, 1980, and that all taxes due under those laws, such as on remainder interests, would be collected.~~

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~~2. The Virginia estate tax statutes at §§58.1-900 through 58.1-938 should be referred to for provisions not regulated herein.~~

~~B. In general.~~

~~1. The statute imposes the estate tax in an amount equal to the maximum amount of the credit for state death taxes allowable under §2011 of the Internal Revenue Code. There is no credit against the Virginia estate tax for taxes paid on previous transfers by gift or inheritance of any property in the estate.~~

~~2. Waivers from the department are not required under Virginia law for the transfer of intangible property from the name of a resident or nonresident decedent.~~

~~3. A partner's interest in partnership property real, personal or mixed shall be considered an intangible asset.~~

~~23 VAC 10-300-40. Nonresident's tax.~~

~~The nonresident's tax calculated in §58.1-903 A is described by the formula:~~

~~Value of property — Federal credit for~~

~~taxable in Virginia x State death taxes~~

~~Value of gross estate _____~~

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~~23 VAC 10-300-60. Filing returns and payment of tax.~~

~~Section 58.1-905 provides for extension of time for filing of the Virginia estate tax return. There is no provision for extension of time for payment. The tax is due nine months after the death of the decedent. If not paid when due, interest will accrue from the expiration of nine months after the decedent's death. If the return is filed and the tax paid at the expiration of an extension of time for the filing of the return, interest will accrue upon the tax for the period between the date of expiration of nine months after the death of the decedent. If not paid when due, interest will accrue from the expiration of nine months after the decedent's death. If the return is filed and the tax paid at the expiration of an extension of time for the filing of the return, interest will accrue upon the tax for the period between the date of expiration of nine months after the decedent's death and the date of full payment.~~

~~23 VAC 10-300-70. Amended returns.~~

~~"Written notice of such deficiency" of federal estate taxes required to be filed with the department according to §58.1-906 B of the Code of Virginia shall be a copy of the federal adjustments.~~

~~Amended returns for refund of estate tax must be filed according to the provisions of §58.1-1823 and regulations promulgated thereunder.~~