

McGuireWoods LLP

State Death Tax Chart

March 18, 2018

This chart is maintained for the McGuireWoods LLP Website and is updated regularly. Any comments on the chart or new developments that should be reflected on the chart may be sent to cfox@mcguirewoods.com.

	Type of Tax	Effect of EGTRRA on Pick-up Tax and Size of Gross Estate	Legislation Affecting State Death Tax	2018 State Death Tax Threshold
Alabama	None	Tax is tied to federal state death tax credit. AL ST § 40-15-2.		
Alaska	None	Tax is tied to federal state death tax credit. AK ST § 43.31.011.		
Arizona	None	Tax was tied to federal state death tax credit. AZ ST §§ 42-4051; 42-4001(2), (12). On May 8, 2006, Governor Napolitano signed SB 1170 which permanently repealed Arizona's state estate tax.		
Arkansas	None	Tax is tied to federal state death tax credit. AR ST § 26-59-103; 26-59-106; 26-59-109, as amended March, 2003.		
California	None	Tax is tied to federal state death tax credit. CA REV & TAX §§ 13302; 13411.		
Colorado	None	Tax is tied to federal state death tax credit. CO ST §§ 39-23.5-103; 39-23.5-102.		
Connecticut	Separate Estate Tax	As part of the two year budget which became law on September 8, 2009, the	On October 31, 2017, the Connecticut	\$2,600,000

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		<p>exemption for the separate estate and gift taxes was increased to \$3.5 million, effective January 1, 2010, the tax rates were reduced to a spread of 7.2% to 12%, and effective for decedents dying on or after January 1, 2010, the Connecticut tax is due six months after the date of death. CT ST § 12-391. In May 2011, the threshold was lowered to \$2 million retroactive to January 1, 2011.</p>	<p>Governor signed the 2018-2019 budget which increased the exemption for the Connecticut state estate and gift tax to \$2,600,000 in 2018, to \$3,600,000 in 2019, and to the federal estate and gift tax exemption in 2020.</p> <p>Beginning in 2019, the cap on the Connecticut state estate and gift tax is reduced from \$20 million to \$15 million (which represents the tax due on a Connecticut estate of approximately \$129 million).</p>	
Delaware	None	<p>On July 2, 2017, the Governor signed HB 16 which sunsets the Delaware Estate Tax on December 31, 2017.</p>		
District of Columbia	Pick-up Only	<p>As a result of 2015 legislation as modified in 2017, the threshold will</p>		\$11,180,000

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		<p>match federal exemption as it is indexed for inflation beginning in 2018. DC CODE 47-3701(14)</p> <p>No separate state QTIP election.</p>		
Florida	None	<p>Tax is tied to federal state death tax credit. FL ST § 198.02; FL CONST. Art. VII, Sec. 5</p>		
Georgia	None	<p>Effective July 1, 2014, the Georgia estate tax was repealed. See § 48-12-1.</p>		
Hawaii	Modified Pick-up Tax	<p>Tax was tied to federal state death tax credit. HI ST §§ 236D-3; 236D-2; 236D-B</p> <p>The Hawaii Legislature on April 30, 2010 overrode the Governor's veto of HB 2866 to impose a Hawaii estate tax on residents and also on the Hawaii assets of a non-resident or a non US citizen.</p>	<p>On May 2, 2012, the Hawaii legislature passed HB2328 which conforms the Hawaii estate tax exemption to the federal estate tax exemption for decedents dying after January 25, 2012.</p>	\$11,180,000
Idaho	None	<p>Tax is tied to federal state death tax credit. ID ST §§ 14-403; 14-402; 63-3004 (as amended Mar. 2002).</p>		
Illinois	Modified Pick-up Only	<p>On January 13, 2011, Governor Quinn signed Public Act 096-1496 which increased Illinois' individual and corporate income tax rates.</p>		\$4,000,000

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		<p>Included in the Act was the reinstatement of Illinois' estate tax as of January 1, 2011 with a \$2 million exemption.</p> <p>Senate Bill 397 passed both the Illinois House and Senate as part of the tax package for Sears and CME on December 13, 2011. It increased the exemption to \$3.5 million for 2012 and \$4 million for 2013 and beyond. Governor Quinn signed the legislation on December 16, 2011.</p> <p>Illinois permits a separate state QTIP election, effective September 8, 2009. 35 ILCS 405/2(b-1).</p>		
Indiana	None	<p>Pick-up tax is tied to federal state death tax credit. IN ST §§ 6-4.1-11-2; 6-4.1-1-4.</p>	<p>On May 11, 2013, Governor Pence signed HB 1001 which repealed Indiana's inheritance tax retroactively to January 1, 2013. This replaced Indiana's prior law enacted in 2012 which phased out Indiana's inheritance tax over nine years</p>	

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			beginning in 2013 and ending on December 31, 2021 and increased the inheritance tax exemption amounts retroactive to January 1, 2012.	
Iowa	Inheritance Tax	<p>Pick-up tax is tied to federal state death tax credit. IA ST § 451.2; 451.13. Effective July 1, 2010, Iowa specifically reenacted its pick-up estate tax for decedents dying after December 31, 2010. Iowa Senate File 2380, reenacting IA ST § 451.2.</p> <p>Iowa has a separate inheritance tax on transfers to others than lineal ascendants and descendants.</p>		
Kansas	None	For decedents dying on or after January 1, 2007 and through December 31, 2009, Kansas had enacted a separate stand alone estate tax. KS ST § 79-15, 203		
Kentucky	Inheritance Tax	<p>Pick-up tax is tied to federal state death tax credit. KY ST § 140.130.</p> <p>Kentucky has not decoupled but has a</p>		

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		separate inheritance tax and recognizes by administrative pronouncement a separate state QTIP election.		
Louisiana	None	Pick-up tax is tied to federal state death tax credit. LA R.S. §§ 47:2431; 47:2432; 47:2434.		
Maine	Pick-up Only	<p>For decedents dying after December 31, 2002, pick-up tax was frozen at pre-EGTRRA federal state death tax credit, and imposed on estates exceeding applicable exclusion amount in effect on December 31, 2000 (including scheduled increases under pre-EGTRRA law) (L.D. 1319; March 27, 2003).</p> <p>On June 20, 2011, Maine's governor signed Public Law Chapter 380 into law, which will increase the Maine estate tax exemption to \$2 million in 2013 and beyond. The rates were also changed, effective January 1, 2013, to 0% for Maine estates up to \$2 million, 8% for Maine estates between \$2 million and \$5 million, 10% between \$5 million and \$8 million and 12%</p>	Maine does not appear to have picked up the amendments made in the 2017 federal tax reform act. For estates of decedents dying on or after January 1, 2016, the "Maine exclusion amount" means the basic exclusion amount determined for the calendar year in accordance with Section 2010(c)(3) of the "Code." 36 M.R.S. § 4102(5). However, Maine's tax law defines "Code" as the	\$5,600,000 Estimated

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		<p>for the excess over \$8 million.</p> <p>On June 30, 2015, the Maine legislature overrode the Governor's veto of LD 1019, the budget bill for fiscal years 2016 and 2017. As part of the new law, the Maine Exemption is tagged to the federal exemption for decedents dying on or after January 1, 2016.</p> <p>The tax rates will be:</p> <p>8% on the first \$3 million above the Maine Exemption;</p> <p>10% on the next \$3 million above the Maine Exemption; and</p> <p>!2% on all amounts above \$6 million above the Maine Exemption.</p> <p>The new legislation did not include portability as part of the Maine Estate Tax.</p> <p>For estates of decedents dying after December 31, 2002, Sec. 2058 deduction is ignored in computing Maine tax and a separate state QTIP election is permitted.</p>	<p>United States Internal Revenue Code of 1986 and any amendments to that Code as of December 31, 2016.</p>	

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		<p>M.R.S. Title 36, Sec. 4062.</p> <p>Maine also subjects real or tangible property located in Maine that is transferred to a trust, limited liability company or other pass-through entity to tax in a non resident's estate. M.R.S. Title 36, Sec. 4064.</p>		
Maryland	<p>Pick-up Tax</p> <p>Inheritance Tax</p>	<p>On May 15, 2014, Governor O'Malley signed HB 739 which repealed and reenacted MD TAX GENERAL §§ 7-305, 7-309(a), and 7-309(b) to do the following:</p> <ol style="list-style-type: none"> 1. Increases the threshold for the Maryland estate tax to \$1.5 million in 2015, \$2 million in 2016, \$3 million in 2017, and \$4 million in 2018. For 2019 and beyond, the Maryland threshold will equal the federal applicable exclusion amount. 2. Continues to limit the amount of the federal credit used to calculate the 		\$4,000,000

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		<p>Maryland estate tax to 16% of the amount by which the decedent's taxable estate exceeds the Maryland threshold unless the Section 2011 federal state death tax credit is then in effect.</p> <p>3. Continues to ignore the federal deduction for state death taxes under Sec. 2058 in computing Maryland estate tax, thus eliminating a circular computation.</p> <p>4. Permits a state QTIP election.</p>		
Massachusetts	Pick-up Only	<p>For decedents dying in 2002, pick-up tax is tied to federal state death tax credit. MA ST 65C §§ 2A.</p> <p>For decedents dying on or after January 1, 2003, pick-up tax is frozen at federal state death tax credit in effect on December 31, 2000. MA</p>		\$1,000,000

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		<p>ST 65C §§ 2A(a), as amended July 2002.</p> <p>Tax imposed on estates exceeding applicable exclusion amount in effect on December 31, 2000 (including scheduled increases under pre-EGTRRA law), even if that amount is below EGTRRA applicable exclusion amount. See, Taxpayer Advisory Bulletin (Dec. 2002), DOR Directive 03-02, Mass. Guide to Estate Taxes (2003) and TIR 02-18 published by Mass. Dept. of Rev.</p> <p>Massachusetts Department of Revenue has issued directive, pursuant to which separate Massachusetts QTIP election can be made when applying state's new estate tax based upon pre-EGTRRA federal state death tax credit.</p>		
Michigan	None	<p>Tax is tied to federal state death tax credit. MI ST §§ 205.232; 205.256</p>		
Minnesota	Pick-up Only	<p>Tax frozen at federal state death tax credit in effect on December 31, 2000, clarifying statute passed May 2002.</p>	<p>On May 30, 2017, the governor signed the budget bill, H.F. No. 1</p>	\$2,400,000

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		<p>Tax imposed on estates exceeding federal applicable exclusion amount in effect on December 31, 2000 (including scheduled increases under pre-EGTRRA law), even if that amount is below EGTRRA applicable exclusion amount. MN ST §§ 291.005; 291.03; instructions for MS Estate Tax Return; MN Revenue Notice 02-16.</p> <p>Separate state QTIP election permitted.</p>	<p>which increased the Minnesota estate tax exemption for 2017 from \$1,800,000 to \$2,100,000 retroactively, and increases the exemption to \$2,400,000 in 2018, \$2,700,000 in 2019, and \$3,000,000 for 2020 and thereafter.</p> <p>A provision enacted in 2013 to impose an estate tax on non-residents who own an interest in a pass-through entity which in turn owned real or personal property in Minnesota was amended in 2014 to exclude certain publicly traded entities. It still applies to entities taxed as partnerships or S Corporations</p>	

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			that own closely held businesses, farms, and cabins.	
Mississippi	None	Tax is tied to federal state death tax credit. MS ST § 27-9-5.		
Missouri	None	Tax is tied to federal state death tax credit. MO ST §§ 145.011; 145.091.		
Montana	None	Tax is tied to federal state death tax credit. MT ST § 72-16-904; 72-16-905.		
Nebraska	County Inheritance Tax	Nebraska through 2006 imposed a pick-up tax at the state level. Counties impose and collect a separate inheritance tax. NEB REV ST § 77-2101.01(1).		
Nevada	None	Tax is tied to federal state death tax credit. NV ST Title 32 §§ 375A.025; 375A.100.		
New Hampshire	None	Tax is tied to federal state death tax credit. NH ST §§ 87:1; 87:7.		
New Jersey	Inheritance Tax	For decedents dying after December 31, 2002, pick-up tax frozen at federal state death tax credit in effect on December 31, 2001. NJ ST § 54:38-1 Pick-up tax imposed on estates exceeding federal	On October 14, Governor Christie signed Assembly Bill A-12 which was the tax bill accompanying the Assembly Bill A-10	

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		<p>applicable exclusion amount in effect December 31, 2001 (\$675,000), not including scheduled increases under pre-EGTRRA law, even though that amount is below the lowest EGTRRA applicable exclusion amount.</p> <p>The exemption will be increased to \$2 million in 2017 and the pick-up tax, but the inheritance tax, will be eliminated as of January 1, 2018.</p> <p>The executor has the option of paying the above pick-up tax or a similar tax prescribed by the NJ Dir. Of Div. of Taxn. NJ ST § 54:38-1; approved on July 1, 2002.</p> <p>In <u>Oberhand v. Director, Div. of Tax</u>, 193 N.J. 558 (2008), the retroactive application of New Jersey's decoupled estate tax to the estate of a decedent dying prior to the enactment of the tax was declared "manifestly unjust", where the will included marital formula provisions.</p> <p>In <u>Estate of Stevenson v. Director</u>, 008300-07 (N.J.Tax 2-19-2008) the</p>	<p>which revised the funding for the state's Transportation Fund. Under this new law, the Pick-Up Tax will have a \$2 million exemption in 2017 and will be eliminated as of January 1, 2018. The new law also eliminates the tax on New Jersey real and tangible property of a non-resident decedent.</p> <p>The repeal of the pick-up tax does not apply to the separate New Jersey inheritance tax.</p>	

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		<p>NJ Tax Court held that in calculating the New Jersey estate tax where a marital disposition was burdened with estate tax, creating an interrelated computation, the marital deduction must be reduced not only by the actual NJ estate tax, but also by the hypothetical federal estate tax that would have been payable if the decedent had died in 2001.</p> <p>New Jersey allows a separate state QTIP election when a federal estate tax return is not filed and is not required to be filed.</p> <p>The New Jersey Administrative Code also requires that if the federal and state QTIP election is made, they must be consistent. NJAC 18:26-3A.8(d)</p>		
New Mexico	None	<p>Tax is tied to federal state death tax credit. NM ST §§ 7-7-2; 7-7-3.</p>		
New York	Pick-up Only	<p>Tax frozen at federal state death tax credit in effect on July 22, 1998. NY TAX § 951.</p> <p>Governor signed S. 6060 in 2004 which applies New York Estate Tax on</p>	<p>The Executive Budget of 2014-2015 which was signed by Governor Cuomo on March 31,</p>	<p>\$5,250,000 April 1, 2017 through December 31, 2018)</p>

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		<p>a <i>pro rata</i> basis to non-resident decedents with property subject to New York Estate Tax.</p> <p>On March 16, 2010, the New York Office of Tax Policy Analysis, Taxpayer Guidance Division issued a notice permitting a separate state QTIP election when no federal estate tax return is required to be filed such as in 2010 when there is no estate tax or when the value of the gross estate is too low to require the filing of a federal return. See TSB-M-10(1)M.</p> <p>Advisory Opinion (TSB-A-08(1)M (October 24, 2008) provides that an interest in an S Corporation owned by a non-resident and containing a condominium in New York is an intangible asset as long as the S Corporation has a real business purpose. If the S Corporation has no business purpose, it appears that New York would look through the S Corporation and subject the condominium to New York estate tax in the estate of the non-resident. There would likely be no</p>	<p>2014 made substantial changes to New York's estate tax.</p> <p>The New York estate tax exemption which was \$1,000,000 through March 31, 2014 has been increased as follows:</p> <p>April 1, 2014 to March 31, 2015 -- \$2,062,500</p> <p>April 1, 2015 to March 31, 2016 -- \$3,125,000</p> <p>April 1, 2016 to March 31, 2017 -- \$4,187,500</p> <p>April 1, 2017 to December 31, 2018 -- \$5,250,000</p> <p>As of January 1, 2019, the New York estate tax exemption amount will be</p>	

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		<p>business purpose if the sole reason for forming the S Corporation was to own assets.</p>	<p>the same as the federal estate tax applicable exclusion amount.</p> <p>The maximum rate of tax will continue to be 16%.</p> <p>Taxable gifts within three years of death between April 1, 2014 and December 31, 2018 will be added back to a decedent's estate for purposes of calculating the New York tax.</p> <p>The New York estate tax will be a cliff tax. If the value of the estate is more than 105% of the then current exemption, the exemption will not be available.</p> <p>On April 1, 2015, as part of 2015-2016 Executive</p>	

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			<p>Budget, New York enacted changes to the New York Estate Tax. New York first clarified that the new rate schedule enacted in 2014 applies to all decedents dying after April 1, 2014. Previously, the rate schedule only applied through March 31, 2015. New York then modified the three year gift add-back provision to make it clear that the gift add-back does not apply to any individuals dying on or after January 1, 2019. Previously, the gift add-back provision did not apply to gifts made on or after January 1, 2019.</p> <p>New York continues to</p>	

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			not permit portability for New York estates and no QTIP election is allowed.	
North Carolina	None		On July 23, 2013, the Governor signed HB 998 which repealed the North Carolina estate tax retroactively to January 1, 2013.	
North Dakota	None	Tax is tied to federal state death tax credit. ND ST § 57-37.1-04		
Ohio	None	Governor Taft signed the budget bill, 2005 HB 66, repealing the Ohio estate (sponge) tax prospectively and granting credit for it retroactively. This was effective June 30, 2005 and killed the sponge tax. On June 30, 2011, Governor Kasich signed HB 153, the biannual budget bill, which contained a repeal of the Ohio state estate tax effective January 1, 2013.		
Oklahoma	None	Tax is tied to federal state death tax credit. OK ST Title 68 § 804		

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		The separate estate tax was phased out as of January 1, 2010.		
Oregon	Separate Estate Tax	<p>On June 28, 2011, Oregon's governor signed HB 2541 which replaces Oregon's pick-up tax with a stand-alone estate tax effective January 1, 2012. The new tax has a \$1 million threshold with rates increasing from ten percent to sixteen percent between \$1 million and \$9.5 million.</p> <p>Determination of the estate for Oregon estate tax purposes is based upon the federal taxable estate with adjustments.</p>		\$1,000,000
Pennsylvania	Inheritance Tax	<p>Tax is tied to the federal state death tax credit to the extent that the available federal state death tax credit exceeds the state inheritance tax. PA ST T. 72 P.S. § 9117 amended December 23, 2003.</p> <p>Pennsylvania had decoupled its pick-up tax in 2002, but has now recoupled retroactively. The recoupling does not affect the Pennsylvania inheritance tax which is independent of the federal state death tax credit.</p>		

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		Pennsylvania recognizes a state QTIP election.		
Rhode Island	Pick-up Only	<p>Tax frozen at federal state death tax credit in effect on January 1, 2001, with certain adjustments (see below). RI ST § 44-22-1.1.</p> <p>Rhode Island recognized a separate state QTIP election in the State's Tax Division Ruling Request No. 2003-03.</p> <p>Rhode Island's Governor signed into law HB 5983 on June 30, 2009, effective for deaths occurring on or after January 1, 2010, an increase in the amount exempt from Rhode Island estate tax from \$675,000, to \$850,000, with annual adjustments beginning for deaths occurring on or after January 1, 2011 based on "the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U). . . rounded up to the nearest five dollar (\$5.00) increment." RI ST § 44-22-1.1.</p>	<p>On June 19, 2014, the Rhode Island Governor approved changes to the Rhode Island Estate Tax by increasing the exemption to \$1,500,000 indexed for inflation in 2015 and eliminating the cliff tax.</p>	\$1,537,656
South Carolina	None	Tax is tied to federal state death tax credit.		

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		SC ST §§ 12-16-510; 12-16-20 and 12-6-40, amended in 2002.		
South Dakota	None	Tax is tied to federal state death tax credit. SD ST §§ 10-40A-3; 10-40A-1 (as amended Feb. 2002).		
Tennessee	None	Pick-up tax is tied to federal state death tax credit. TN ST §§ 67-8-202; 67-8-203. Tennessee had a separate inheritance tax which was phased out as of January 1, 2016.	On May 2, 2012, the Tennessee legislature passed HB 3760/SB 3762 which phased out the Tennessee Inheritance Tax as of January 1, 2016. The Tennessee Inheritance Tax Exemption was increased to \$1.25 million in 2013, \$2 million in 2014, and \$5 million in 2015. On May 2, 2012, the Tennessee legislature also passed HB 2840/SB2777 which repealed the Tennessee state gift tax retroactive to	

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			January 1, 2012.	
Texas	None	Tax was permanently repealed effective as of September 15, 2015 when Chapter 211 of the Texas Tax Code was repealed. Prior to September 15, 2015, the tax was tied to the federal state death tax credit.		
Utah	None	Tax is tied to federal state death tax credit. UT ST § 59-11-102; 59-11-103.		
Vermont	Modified Pick-up	In 2010, Vermont increased the estate tax exemption threshold from \$2,000,000 to \$2,750,000 for decedents dying January 1, 2011. As of January 1, 2012 the exclusion is scheduled to equal the federal estate tax applicable exclusion, so long as the FET exclusion is not less than \$2,000,000 and not more than \$3,500,000. VT ST T. 32 § 7442a. Previously the estate tax was frozen at federal state death tax credit in effect on January 1, 2001. VT ST T. 32 §§ 7402(8), 7442a, 7475, amended on June 21, 2002. No separate state QTIP election permitted.		\$2,750,000

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Virginia	None	<p>Tax is tied to federal state death tax credit. VA ST §§ 58.1-901; 58.1-902.</p> <p>The Virginia tax was repealed effective July 1, 2007. Previously, the tax was frozen at federal state death tax credit in effect on January 1, 1978. Tax was imposed only on estates exceeding EGTRRA federal applicable exclusion amount. VA ST §§ 58.1-901; 58.1-902.</p>		
Washington	Separate Estate Tax	<p>On February 3, 2005, the Washington State Supreme Court unanimously held that Washington's state death tax was unconstitutional. The tax was tied to the current federal state death tax credit, thus reducing the tax for the years 2002 - 2004 and eliminating it for the years 2005 - 2010. <u>Hemphill v. State Department of Revenue</u> 2005 WL 240940 (Wash. 2005).</p> <p>In response to <u>Hemphill</u>, the Washington State Senate on April 19 and the Washington House on April 22, 2005, by narrow majorities, passed a stand-alone state estate tax with rates ranging from 10% to</p>	<p>On June 14, 2013, Governor Inslee signed HB 2075 which closed an exemption for marital trusts retroactively immediately prior to when the Department of Revenue was about to start issuing refund checks, created a deduction for up to \$2.5 million for certain family owned businesses and indexes the \$2 million</p>	\$2,193,000

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		<p>19%, a \$1.5 million exemption in 2005 and \$2 million thereafter, and a deduction for farms for which a Sec. 2032A election could have been taken (regardless of whether the election is made). The Governor signed the legislation. WA ST §§ 83.100.040; 83.100.020.</p> <p>Washington voters defeated a referendum to repeal the Washington estate tax in the November 2006 elections.</p> <p>Washington permits a separate state QTIP election. WA ST §83.100.047.</p>	Washington state death tax threshold for inflation.	
West Virginia	None	Tax is tied to federal state death tax credit. WV § 11-11-3.		
Wisconsin	None	<p>Tax is tied to federal state death tax credit. WI ST § 72.01(11m).</p> <p>For deaths occurring after September 30, 2002, and before January 1, 2008, tax was frozen at federal state death tax credit in effect on December 31, 2000 and was imposed on estates exceeding federal applicable exclusion amount in effect on December 31, 2000 (\$675,000), not including</p>		

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		<p>scheduled increases under pre-EGTRRA law, even though that amount is below the lowest EGTRRA applicable exclusion amount. Thereafter, tax imposed only on estates exceeding EGTRRA federal applicable exclusion amount.</p> <p>WI ST §§ 72.01; 72.02, amended in 2001; WI Dept. of Revenue website.</p> <p>On April 15, 2004, the Wisconsin governor signed 2003 Wis. Act 258, which provided that Wisconsin will not impose an estate tax with respect to the intangible personal property of a non-resident decedent that has a taxable situs in Wisconsin even if the non-resident's state of domicile does not impose a death tax. Previously, Wisconsin would impose an estate tax with respect to the intangible personal property of a non-resident decedent that had a taxable situs in Wisconsin if the state of domicile of the non-resident had no state death tax.</p>		
Wyoming	None	Tax is tied to federal state death tax credit.		

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		WY ST §§ 39-19-103; 39-19-104.		