

# Estate Tax: Connecticut

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A Q&A guide to Connecticut laws on estate taxation of transfers at death. This Q&A addresses whether a jurisdiction has any estate tax or other similar taxes imposed at death and, for jurisdictions currently imposing a state estate tax, includes an overview of the state estate tax system, the basic exemption amount, the calculation of the gross estate, available deductions, calculating the state estate tax, filing the state estate tax return, and paying the state estate tax.

## EXISTENCE OF ESTATE TAX

### 1. Does your state have an estate tax?

Connecticut imposes an estate tax on transfers of assets above the Connecticut estate tax exemption amount (Conn. Gen. Stat. Ann. §§ 12-391 to 12-405 and see Estate Tax Exemption).

## OVERVIEW OF THE ESTATE TAX

### 2. To whom does the state estate tax apply in your state?

Connecticut estate tax applies to:

- Resident decedents.
- Non-resident decedents that die owning property in Connecticut. (Conn. Gen. Stat. Ann. § 12-391.)

The estate tax is calculated differently for residents and nonresidents (Conn. Gen. Stat. Ann. §§ 12-391(d) and (e) and see Question 3).

### 3. How is the state estate tax calculated in your state?

The Connecticut Estate Tax is calculated by:

- Calculating the Connecticut taxable estate by:
  - determining the gross estate less allowable deductions, as determined under Chapter 11 of the Internal Revenue Code, but disregarding the deduction for state death taxes (see The Gross Estate);
  - adding the aggregate amount of all Connecticut taxable gifts made by the decedent for all calendar years beginning on or after January 1, 2005, other than Connecticut taxable gifts that are includable in the gross estate of the decedent for federal tax purposes (Conn. Gen. Stat. Ann. § 12-643); and
  - adding the amount of any tax paid to Connecticut by the decedent or the decedent's estate on any gift made by the decedent or the decedent's spouse during the three-year period preceding the date of the decedent's death, disregarding the deduction for state death taxes.

(Conn. Gen. Stat. Ann. § 12-391(c).)

- Calculating the tax due by:
  - for a resident decedent, applying the applicable rate from the rate tables set out in Connecticut tax law (Conn. Gen. Stat. Ann. § 12-391(g)(3) and see Tax Rate); and
  - for a nonresident decedent, applying the applicable rate from the rate tables set out in Connecticut tax law and multiplying the tax due by a fraction, the numerator of which is the value of that part of the decedent's gross estate over which Connecticut has jurisdiction for estate tax purposes and the denominator of which is the value of the decedent's gross estate (Conn. Gen. Stat. Ann. § 12-391(e)(1)(C)).
- Applying any applicable credits (Conn. Gen. Stat. Ann. § 12-391(d)(1)(D) and see Applicable Credits Against Estate Tax).
- Reducing the tax due for any real or tangible personal property of a resident decedent located outside the State of Connecticut (Conn. Gen. Stat. Ann. § 12-391(d)(1)(D)).

In no event can the Connecticut estate tax exceed \$20 million (Conn. Gen. Stat. Ann. § 12-391(e)(1)(C)).

## THE GROSS ESTATE

### 4. What is included in a decedent's gross estate for tax purposes? Specifically, please discuss what is included in:

- The gross estate of a resident decedent.
- The gross estate of a nonresident decedent.

Determining the Gross Estate of a resident and nonresident is the same in Connecticut. The difference is in how the tax is calculated for residents versus nonresidents once the gross estate has been established. The same initial gross estate calculation is done for both estates in which the decedent was a Connecticut resident and for estates in which the decedent was a nonresident with real or tangible personal property located in Connecticut.

A decedent is a resident if the decedent's domicile is in Connecticut. All decedents' estates required to file an estate tax return in Connecticut are presumed to have been resident in Connecticut at death and the burden of proof is on the decedent's estate to prove nonresidency. (Conn. Gen. Stat. Ann. § 12-391(h)(1).)

Once the gross estate is calculated, the determination of the tax due from the estate differs for resident and non-resident estates, but the gross estate calculation is the same for both (see Question 3).

### 5. How are assets valued for state estate tax purposes? Specifically please discuss:

- Availability of alternate valuation date.
- Requirements for alternate valuation.

Asset values for Connecticut estate tax purposes are dictated by the federal estate tax rules for valuing assets (Conn. Gen. Stat. Ann. § 12-391(c)(1)). The value of each asset for estate tax purposes is its fair market value on the date of the decedent's death or on the alternate valuation date, if the executor elects alternate valuation (26 U.S.C. § 2031(a)). Fair market value is defined as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts" (26 C.F.R. § 20.2031-1).

An appraisal may be necessary to obtain a proper value for an estate asset.

## ALTERNATE VALUATION

Connecticut allows the executor to elect to value the assets included in the gross estate as of an alternate valuation date. This date is either:

- Six months after the date of death.
- The earlier date on which the assets are sold, exchanged, or distributed.

The executor may make the alternate valuation election if doing so decreases both:

- The value of the gross estate.
- The amount of estate tax payable.

(26 U.S.C. § 2032(c) and Conn. Gen. Stat. Ann. § 12-391(c)(1)(C).)

If the value of property is affected by mere lapse of time, it is valued for alternate valuation purposes as of the date of death, with an adjustment for any difference in its value as of the later date that is not due to mere lapse of time (26 U.S.C. § 2032(a)). An example of this is a change in actuarial values between the date of death and the alternate valuation date due to the change in a person's age during the same time period.

If alternate valuation is elected, the election applies to all of the estate's assets, even if the value of any individual asset actually increases as of the alternate valuation date (26 U.S.C. § 2032(a) and Conn. Gen. Stat. Ann. § 12-391(c)(1)(C)).

## ESTATE TAX EXEMPTION

### 6. Is there an exemption from estate tax in your state? Specifically please discuss:

- Whether the estate tax exemption in your state is tied to the federal exemption.
- The amount of the exemption in your state.
- How the exemption amount is determined in your state.

The Connecticut Estate Tax Exemption is \$2 million and is not tied to the federal exemption or indexed for inflation (Conn. Gen. Stat. Ann. § 12-391(g)(3)).

### 7. Can a deceased spouse's unused exemption (DSUE) be ported to a surviving spouse in your state?

Connecticut does not offer portability. This means that the use of traditional tax savings vehicles, such as credit shelter trusts, remains an important estate planning concept in Connecticut to prevent the loss of the first spouse to die's exemption amount at the state level.

## DEDUCTIONS FROM GROSS ESTATE

### 8. Discuss the most common deductions that are available in your state for tax purposes.

Connecticut follows the federal estate tax law in determining which deductions are permitted for calculating the taxable estate (Conn. Gen. Stat. Ann. § 12-391(f)(1)). The deductions from the gross estate authorized by the Code are:

- Administration expenses, debts, and claims (26 U.S.C. § 2053 and see Administration Expenses, Debts, and Claims).
- Losses from casualty or theft during the administration of the estate (26 U.S.C. § 2054 and see Losses).
- The marital deduction (26 U.S.C. §§ 2056 and 2056(A) and see Marital Deduction).
- The charitable deduction (26 U.S.C. § 2055 and see Charitable Deduction).
- State death taxes to the extent they are applicable (26 U.S.C. § 2058 and see State Death Taxes).

## ADMINISTRATION EXPENSES, DEBTS, AND CLAIMS

This category of deductions includes items, such as:

- Funeral and administration expenses.
- Claims against the estate, including mortgages on property included in the gross estate.
- Fees for attorneys, accountants, and appraisers.
- Executor's commissions.
- Income tax liability.

To be deductible, administrative expenses must be:

- Incurred on behalf of the estate, not the beneficiaries.
- Allowable by local law.
- Actually incurred in the collection of assets, payment of debts, and distribution of property to the persons entitled to it.

(26 U.S.C. § 2053 and 26 C.F.R. § 20.2053-3.)

## LOSSES

Losses incurred during the settlement of estates arising from fires, storms, shipwrecks, other casualties, or theft, when these losses are not compensated by insurance or otherwise, are deductible (26 U.S.C. § 2054).

## MARITAL DEDUCTION

The unlimited marital deduction allows a decedent to transfer assets to the decedent's US citizen spouse free of estate tax (26 U.S.C. § 2056). The estate receives a deduction for assets passing from the decedent to the decedent's surviving spouse. The assets remaining at the time of the surviving spouse's death that are still owned by the surviving spouse are then included as part of the surviving spouse's estate. This deduction allows for a significant deferral and potential savings of estate tax.

Not all transfers to a surviving spouse qualify for the estate tax marital deduction. To qualify, an asset:

- Must be included in the decedent's gross estate.
- Cannot be otherwise deductible under another provision.
- Must pass at death from the decedent to the spouse.
- Cannot be a terminable interest.

(26 U.S.C. § 2056.)

Connecticut law:

- Specifically allows for the marital deduction available under 26 U.S.C. Section 2056(b)(7) (Conn. Gen. Stat. Ann. § 12-391(f)(1)).
- Specifically provides that the marital deduction is available for Connecticut estate tax purposes even if that election is not made for federal estate tax purposes (Conn. Gen. Stat. Ann. § 12-391(f)(2)).

This is the state only QTIP election. However, the Connecticut Department of Revenue Services has not interpreted the statute to allow state-only QTIP elections in all situations. Rather the Department has taken the position that if a QTIP election is made for federal estate tax purposes, it must also be made in exactly the same manner for Connecticut estate tax purposes. (See State of Connecticut, Department of Revenue Services Special Notice: SN 2005(10): 2005 Legislation Repealing the Succession Tax and

Amending the Connecticut Gift Tax and the Connecticut Estate Tax.) However, if no federal election is made, then a state-only QTIP election may be made in Connecticut. This means state-only elections are only possible in situations where no federal election is made. Even if a federal return is filed, a state-only QTIP can be made if no QTIP election is made on the federal return.

No estate tax marital deduction is permitted for outright transfers to a noncitizen spouse. A limited marital deduction instead may be available to the extent that the decedent transfers assets to a qualified domestic trust (QDOT) for the benefit of the noncitizen surviving spouse. (26 U.S.C. §§ 2056(d) and 2056A.)

## CHARITABLE DEDUCTION

An estate receives a deduction for the value of bequests to public, charitable, and religious organizations or entities, including qualified charitable trusts and foundations established by the decedent (26 U.S.C. § 2055). This deduction is limited to the extent of the value of the property transferred to the charity (26 C.F.R. § 20.2055-3 and Conn. Gen. Stat. Ann. § 12-391(f)(1)).

To qualify for the charitable deduction, a transfer must be of property that is both:

- Included in the decedent's gross estate.
- Transferred from the decedent to a qualified organization.

(26 C.F.R. § 20.2055-1(a).)

## STATE DEATH TAXES

There is a deduction available for federal estate tax purposes for death taxes paid to any state regarding property included in the federal gross estate (26 U.S.C. § 2058). However, for Connecticut purposes, there is no deduction available for estate taxes paid to Connecticut.

Because Connecticut first determines the total estate tax due as if the decedent were a resident of Connecticut and all property is located in Connecticut and then reduces the tax due to account for out of state property, if real or tangible property is located outside of Connecticut, the Connecticut estate tax is reduced by an amount equal to the tax otherwise due to Connecticut multiplied by a fraction, the numerator of which is the value of the property located outside of Connecticut and the denominator of which is the value of the gross estate. (Conn. Gen. Stat. Ann. § 12-391(d)(2).) This results in a reduction of the tax due for all out of state property regardless of whether tax was paid or not on that property.

## APPLICABLE CREDITS AGAINST ESTATE TAX

### 9. Are there any applicable credits available against estate tax in your state?

Credits may be available to offset the tentative Connecticut estate tax in the amount of taxes paid to Connecticut by the decedent, the decedent's estate, or the decedent's spouse, or all three, for Connecticut taxable gifts made by the decedent on or after January 1, 2005 that are includable in the gross estate of the decedent (Conn. Gen. Stat. Ann. § 12-391(d)(1)(D)).

## TAX RATE

### 10. What are the estate tax rates in your state?

After establishing the value of the Connecticut taxable estate, the estate executor or administrator must calculate the Connecticut estate tax on the value of the Connecticut taxable estate based on the table set out in Conn. Gen. Stat. Ann. Section 12-391(g)(3). The tax rates increase progressively from 7.2% to 12% (for estates above \$10.1 million) based on the value of the total Connecticut taxable estate.

For estates of decedents dying on or after January 1, 2016 in no event can the amount of tax payable exceed \$20 million (Conn. Gen. Stat. Ann. §§ 12-391(d)(1)(D) and (e)(1)(C)).

#### Connecticut Estate Tax Table

Amount of Connecticut Taxable Estate	Rate of Tax
Not over \$2 million	None
Over \$2 million, but not over \$3.6 million	7.2% of the excess over \$2 million
Over \$3.6 million, but not over \$4.1 million	\$115,200 plus 7.8% of the excess over \$3.6 million
Over \$4.1 million, but not over \$5.1 million	\$154,200 plus 8.4% of the excess over \$4.1 million
Over \$5.1 million, but not over \$6.1 million	\$238,200 plus 9.0% of the excess over \$5.1 million
Over \$6.1 million, but not over \$7.1 million	\$328,200 plus 9.6% of the excess over \$6.1 million
Over \$7.1 million, but not over \$8.1 million	\$424,200 plus 10.2% of the excess over \$7.1 million
Over \$8.1 million, but not over \$9.1 million	\$526,200 plus 10.8% of the excess over \$8.1 million
Over \$9.1 million, but not over \$10.1 million	\$634,200 plus 11.4% of the excess over \$9.1 million
Over \$10.1 million	\$748,200 plus 12% of the excess over \$10.1 million

## FILING THE STATE ESTATE TAX RETURN

### 11. Which estates must file a state estate tax return?

A Connecticut estate tax return is required for:

- All estates of resident decedents regardless of the value of the taxable estate.
- All estates of nonresident decedents where the estate includes real or tangible property located in Connecticut.

(Conn. Gen. Stat. Ann. § 12-391.)

### 12. What forms are required to file a state estate tax return?

Connecticut decedents with taxable estates of \$2 million or above, or estates under \$2 million that need to file a state only QTIP election should file Connecticut Estate and Gift Tax Return, Form CT 706/709.

Connecticut decedents with taxable estates under \$2 million and no need to file a state only QTIP election should file Connecticut Estate Tax Return (for Nontaxable Estates), Form CT 706NT.

The Commissioner may require that a true copy of the federal estate tax return, if one was filed, be provided either with the Connecticut return or at a later date (Conn. Gen. Stat. Ann. § 12-392(b)(1)).

### 13. Where is the state estate tax return filed?

The applicable Connecticut estate tax return must be filed with both:

- The Commissioner of Revenue Services.
- The Probate Court for the district in which the decedent resided on the date of death or, if the decedent was not a resident of Connecticut, the return should be filed in the Probate Court for the district in which the decedent's real estate or tangible personal property is situated (see Connecticut Probate Courts).

(Conn. Gen. Stat. Ann. § 12-392(b)(3).)

To submit the estate tax return to the Commissioner of Revenue Services, the return should be mailed to the address in the instructions for Forms CT 706/709 and CT 706NT.

### 14. Who is responsible for filing the state estate tax return on behalf of the estate?

The Connecticut estate tax return is to be filed by the executor of the estate and must be signed by all executors if the estate has more than one executor. If there is no executor, then each person in actual or constructive possession of any of the decedent's property is to make and file a return regarding that property. (Conn. Gen. Stat. Ann. § 12-392(b)(3).)

### 15. What is the due date for filing the state estate tax return?

For decedents dying any time after July 1, 2009, the Connecticut estate tax return is due six months after the decedent's death. For deaths occurring between January 1, 2005 and July 1, 2009, the estate tax return is due nine months after death. (Conn. Gen. Stat. Ann. § 12-392(a)(1).)

### 16. Is an extension available for filing the state estate tax return? Specifically, please discuss:

- How to apply for a filing extension.
- How many filing extensions are available.

The executor of a Connecticut taxable estate may file for an extension of time to file the Form CT 706/709. The extension may not exceed nine months (Conn. Gen. Stat. Ann. § 12-392(b)(4) and see Form CT 706/709 EXT, Application for Estate and Gift Tax Return Filing Extension and Estate Tax Payment Extension).

To file for an extension, the executor should file Form CT 706/709 EXT, Application for Estate and Gift Tax Return Filing Extension and for Estate Tax Payment Extension.

The executor of a Connecticut nontaxable estate may also file for an extension of time to file the Form CT 706NT by filing Form CT 706NT EXT with the appropriate Probate Court. This extension may not exceed six months (Conn. Gen. Stat. Ann. § 12-392(b)(4) and see Form CT 706/709 EXT, Application for Estate and Gift Tax Return Filing Extension and Estate Tax Payment Extension).

Because probate fees are generally charged at the time of the receipt of the estate tax return or on its due date if it is not timely filed, if an extension is not requested on a Form CT 706NT, the Probate Court imposes interest on the probate fee, even though it is not invoiced, beginning 30 days after the original due date of the tax return. If the Probate Court grants the extension of time to file the tax return, the due date for the court fee is automatically extended for six months as well. (Conn. Gen. Stat. Ann. § 45a-107(m)(2).)

**17. Discuss the circumstances in which a state estate tax return may be required where a federal return is not.**

Connecticut estate tax returns are often required where a federal return is not because a Connecticut estate tax return is required for:

- All estates of resident decedents in Connecticut regardless of the value of the estate.
- All estates of nonresident decedents where the estate includes real or tangible property located in Connecticut, regardless of the value of the property (Conn. Gen. Stat. Ann. § 12-392(b)(3)(D)).

## PAYING THE TAX

**18. When must the state estate tax be paid?**

Connecticut estate tax is currently due and payable within six months after the decedent's date of death, even if an extension is granted to file the return. For decedents dying before July 1, 2009, the due date for payment of Connecticut estate taxes was nine months from the date of death except that for decedents dying after July 1, 2004 and before January 1, 2005, the due date was six months after death. (Conn. Gen. Stat. Ann. § 12-392(a)(1).)

**19. Is an extension available for paying the state estate tax?**

Specifically please discuss:

- How to apply for an extension for paying the estate tax.
- How many extensions for paying the estate tax are available.

An extension of time to pay the Connecticut estate tax may be granted at the discretion of the Connecticut Department of Revenue Services (Conn. Gen. Stat. Ann. § 12-392(a)(2)).

To file for an extension of time to pay the tax, the executor should file Form CT 706/709 EXT, Application for Estate and Gift Tax Return Filing Extension and Estate Tax Payment Extension, and attach a statement showing reasonable cause.

**20. Discuss any interest or penalty assessed for late tax payments of state estate tax.**

The Connecticut estate tax imposed for the estates of decedents dying on or after July 1, 2009 is due at the date of death and payable six months from the date of death (Conn. Gen. Stat. Ann. § 12-392(a)(1)). If tax reported due on the return is not paid within six months of death, a penalty is imposed equal to the greater of:

- 10% of the amount due and unpaid.
- \$50.

(Conn. Gen. Stat. Ann. § 12-392(a)(1).)

Interest is imposed at a rate of 1% per month (pro-rated) from the due date of the tax until the date of payment. The Commissioner of Revenue Services may waive all or part of a penalty when it is proved to the Commissioner's satisfaction that the failure to pay was due to reasonable cause. (Conn. Gen. Stat. Ann. § 12-392(a)(1).)

Procedurally, the Department of Revenue Services requires that all tax and interest due be paid before it considers a request to waive penalties. Any request to waive a penalty must also be made by filing Form DRS PW, Request for Waiver of Civil Penalty.

A penalty of 25% of the amount of the deficiency assessment may be imposed when a tax deficiency is determined to be due to fraud or intent to evade tax (Conn. Gen. Stat. Ann. § 12-548(a)).

If a return is required but not filed, the Commissioner may assess and compute the tax due based on the best information available to the Department of Revenue Services (Conn. Gen. Stat. Ann. § 12-392(b)(5)). In this case, in addition to the tax calculated to be due, the Commissioner imposes a penalty of the greater of:

- 10% of the tax due.
- \$50.

(Conn. Gen. Stat. Ann. § 12-392(b)(5).)

The Commissioner must provide notice of any deficiency assessment regarding a failure to pay penalty or a failure to file penalty and notice of any tax return or other document that must be filed to the appropriate Probate Court (Conn. Gen. Stat. Ann. § 12-392(b)(6)).

The taxpayer is not subject to both a failure to pay penalty and a failure to file penalty for the same tax period (Conn. Gen. Stat. Ann. § 12-392(c)). If the taxpayer both fails to file and fails to pay, the 10% or \$50 penalty only applies once.

**21. How is the state estate tax due allocated among the estate beneficiaries?**

Unless the governing instrument directs otherwise, Connecticut estate tax liability is paid in the proportion that the value of the property received by the beneficiary bears to the total value of the property received by all of the beneficiaries. This includes probate and non-probate beneficiaries. (Conn. Gen. Stat. Ann. § 12-401.)

The most frequently used alternative to the default apportionment rule in Connecticut is to direct that estate taxes are to be paid from the estate's residue. If the taxes are to be paid out of the residue, then the residuary beneficiaries bear the burden of the estate taxes on assets passing to all pre residuary beneficiaries.

More specific and complex tax apportionment provisions sometimes are appropriate. In these cases, taxes may be apportioned specifically to certain beneficiaries or assets. This type of tax apportionment provision is case dependent and varies given the circumstances.

#### 22. Who is liable if the state estate tax is not paid?

Executors, administrators, trustees, grantees, donees, beneficiaries, and surviving joint owners are liable for the estate tax and for any interest or penalty on the tax until it is paid except that no person is liable for a greater sum than the value of the property that the person actually receives (Conn. Gen. Stat. Ann. § 12-392(a)(1)).

### OTHER TRANSFER TAXES PAYABLE AT DEATH

#### 23. Are there any other taxes that apply to the transfer of assets on death in your state? For answer, include a brief description of the tax.

Other than the estate tax, there are currently no additional taxes in Connecticut that apply to the transfer of assets at death.

Connecticut had a generation skipping transfer (GST) tax that was based on the federal GST tax credit for state GST tax. Effective as of January 1, 2005, the federal GST tax credit for state GST tax was eliminated and accordingly, there is no longer a Connecticut GST tax.

Connecticut also had a succession tax that was repealed and does not apply to estates of decedents dying after December 31, 2004.

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