

## §4062. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1981, c. 451, §7 (NEW).]

### 1. Code.

[PL 1987, c. 504, §4 (RP).]

#### 1-A. Federal credit. "Federal credit" has the following meanings:

A. For the estates of decedents dying after December 31, 2002, "federal credit" means the maximum credit against the tax on the federal taxable estate for state death taxes determined under the Code, Section 2011 as of December 31, 2002 exclusive of the reduction of the maximum credit contained in the Code, Section 2011(b)(2); the period of limitations under the Code, Section 2011(c); and the termination provision contained in the Code, Section 2011(f). The state death tax deduction contained in the Code, Section 2058 must be disregarded. The unified credit must be determined under the Code, Section 2010 as of December 31, 2000. The termination provision contained in the Code, Section 2210 must be disregarded. Notwithstanding any other provision of this Title to the contrary, the tax determined by this chapter for estates of decedents dying after December 31, 2009 must be determined in accordance with the law applicable to decedents dying during calendar year 2009, except that for purposes of calculation of the amount of property that may be treated as Maine qualified terminable interest property under subsection 2-B, paragraph C, the applicable exclusion amount must be determined in accordance with the law applicable as of the decedent's actual date of death; and [PL 2011, c. 380, Pt. M, §4 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

B. For the estates of all other decedents, "federal credit" means the maximum credit for state death taxes determined under the Code, Section 2011. [PL 2005, c. 12, Pt. N, §1 (RPR); PL 2005, c. 12, Pt. N, §4 (AFF).]

[PL 2011, c. 380, Pt. M, §4 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

**1-B. Federal taxable estate.** "Federal taxable estate" means the taxable estate as determined using the applicable Code as of the date of the decedent's death except as provided in subsection 1-A, subsection 2 and:

A. The state death tax deduction contained in the Code, Section 2058 must be disregarded; [PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]

B. For estates of decedents dying after December 31, 2004, the federal taxable estate must be decreased by an amount equal to the value of Maine qualified terminable interest property in the estate of the decedent; and [PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]

C. For estates of decedents dying after December 31, 2004, the federal taxable estate must be increased by an amount equal to the value of Maine elective property in respect of the decedent. [PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]

[PL 2009, c. 213, Pt. E, §2 (NEW); PL 2009, c. 213, Pt. E, §6 (AFF).]

**2. Federal gross estate.** "Federal gross estate" means the gross estate of a decedent as determined by the assessor in accordance with the Code, except that, notwithstanding the Code, Section 2035, the value of the gross estate includes the value of all taxable gifts as defined under the Code, Section 2503(a) made by the decedent during the 1-year period ending on the date of the decedent's death, but does not include the value of taxable gifts made prior to January 1, 2008.

[PL 2009, c. 213, Pt. E, §3 (AMD); PL 2009, c. 213, Pt. E, §6 (AFF).]

**2-A. Maine elective property.** "Maine elective property" means all property in which the decedent at the time of death had a qualified income interest for life and with respect to which, for

purposes of determining the tax imposed by this chapter on the estate of a predeceased spouse of the decedent, the federal taxable estate of that predeceased spouse was decreased pursuant to subsection 1-B, paragraph B. The value of Maine elective property is the value determined by the assessor in accordance with the Code as if such property were includible in the decedent's federal gross estate pursuant to the Code, Section 2044 and, in the case of estates that do not incur a federal estate tax, as if the estate had incurred a federal estate tax.

[PL 2009, c. 213, Pt. E, §4 (AMD); PL 2009, c. 213, Pt. E, §6 (AFF).]

**2-B. Maine qualified terminable interest property.** "Maine qualified terminable interest property" means property:

A. That is eligible to be treated as qualified terminable interest property under the Code, Section 2056(b)(7); [PL 2005, c. 12, Pt. N, §2 (NEW); PL 2005, c. 12, Pt. N, §4 (AFF).]

B. For which no election allowable under the Code, Section 2056(b)(7) is made with respect to the federal estate tax; and [PL 2005, c. 12, Pt. N, §2 (NEW); PL 2005, c. 12, Pt. N, §4 (AFF).]

C. With respect to which an election is made, on a return filed timely with the State Tax Assessor, to treat the property as Maine qualified terminable interest property for purposes of the tax imposed by this chapter. The amount of property with respect to which such election is made may not be greater than the amount, if any, by which the applicable exclusion amount determined as of the date of the decedent's death using the Code, Section 2010(c) in effect on that date exceeds the applicable exclusion amount determined as of the date of the decedent's death using the Code, Section 2010(c) in effect on December 31, 2000. [PL 2005, c. 622, §16 (AMD).]

[PL 2005, c. 622, §16 (AMD).]

**3. Nonresident.** "Nonresident" means a natural person domiciled in a jurisdiction other than this State at the time of that person's death.

[PL 2011, c. 380, Pt. M, §5 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

**4. Person.**

[PL 2005, c. 218, §40 (RP).]

**5. Personal representative.** "Personal representative" means the personal representative of the decedent or, if there is no personal representative appointed, qualified and acting within this State, any person who is in the actual or constructive possession of any property included in the gross estate of the decedent.

[PL 1981, c. 451, §7 (NEW).]

**6. Resident.** "Resident" means a natural person domiciled in this State at the time of that person's death.

[PL 2011, c. 380, Pt. M, §6 (AMD); PL 2011, c. 380, Pt. M, §10 (AFF).]

**7. Transfer.** "Transfer" includes the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain sale, gift or appointment in the manner described in this chapter.

[PL 2005, c. 218, §41 (AMD).]

**8. Value.**

[PL 2007, c. 693, §25 (RP).]

**8-A. Value.** When determining value for purposes of this chapter, "value" means, with respect to an estate or to property included in an estate, including Maine qualified terminable interest property, the value as determined by the assessor in accordance with the Code.

[PL 2007, c. 693, §26 (NEW).]

SECTION HISTORY

PL 1981, c. 451, §7 (NEW). PL 1985, c. 535, §7 (AMD). PL 1987, c. 504, §4 (AMD). PL 2001, c. 559, §GG3 (AMD). PL 2001, c. 559, §GG26 (AFF). PL 2003, c. 20, §JJ1 (AMD). PL 2003, c. 673, §§D1,2 (AMD). PL 2005, c. 12, §§N1,2 (AMD). PL 2005, c. 12, §N4 (AFF). PL 2005, c. 218, §§40,41 (AMD). PL 2005, c. 622, §§15-17 (AMD). PL 2005, c. 622, §33 (AFF). PL 2007, c. 693, §§24-26 (AMD). PL 2009, c. 213, Pt. E, §§1-4 (AMD). PL 2009, c. 213, Pt. E, §6 (AFF). PL 2011, c. 380, Pt. M, §§4-6 (AMD). PL 2011, c. 380, Pt. M, §10 (AFF).

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