

Instructions

Who may file Form ET-133

The executor who is required to file the estate tax return for the decedent's estate may file Form ET-133 to request an automatic extension of time to file or to apply for an extension of time to pay the estate tax, or both, under section 976 of the Tax Law. Enter the name (last name first) and other information for the executor of the estate. The term *executor* includes executrix, administrator, administratrix, or personal representative of the decedent's estate; if no executor is appointed, qualified, and acting within the United States, *executor* means any person in actual or constructive possession of any property of the decedent. Also, an authorized attorney, certified public accountant, or other person holding power of attorney (POA) may use this form to apply for an extension of time on behalf of the executor.

Note: If you are giving a person power of attorney to represent you, attach a completed Form ET-14, *Estate Tax Power of Attorney*, if one was not submitted previously. Refer to the instructions on Form ET-14 for additional information.

If you have not previously submitted a copy of the death certificate, mark an **X** in the box and attach a copy to this form.

If *Letters Testamentary* or *Letters of Administration* have been obtained from surrogate's court but not submitted, attach a copy of them to this form and indicate in the space provided the type of letters you are submitting.

If the estate has **more than one executor**, mark an **X** in the box, enter the name and other information for the primary executor (preferably a person residing in New York State) in the area provided, and attach a list of each of the other executors with their mailing address and social security number.

If this application is signed by the authorized representative of the executor, enter the information for that person (attorney, CPA, or person with POA) in the area indicated for attorney or authorized representative.

Note: If an executor has not been appointed, this application may be signed by a person acting as executor who has sufficient knowledge of the estate to file an accurate return. The information (name, address, etc.) for the person acting as executor should be entered in the area provided for the executor. If the application is signed by the authorized representative of a person acting as executor, refer to the information above.

When to file

• Extension of time to file (Tax Law section 976(a)(1))

You **must** file Form ET-133 within 9 months of the date of death. If there is no numerically corresponding day in the ninth month, the last day of the ninth month is the due date. When the due date falls on a Saturday, Sunday, or a legal holiday, the due date is the next weekday that is not a legal holiday.

Note: The extension of time to file an estate tax return may not exceed six months unless the executor is out of the country.

An extension of time to file does not extend the time to pay.

Therefore, if the application is for an extension of time to file only, you must show the amount of the estate tax estimated to be due and include a check or money order payable in U.S. funds to the **Commissioner of Taxation and Finance** with the application (if not previously paid). Write the decedent's social security number and **Estate tax** on the check or money order.

• Extension of time to pay (Tax Law section 976(a))

Note: An extension of time to pay does not extend the time to file.

You must file the return within nine months after the date of death, unless an extension of time to file has been granted.

You must provide details regarding why an extension of time to pay is needed. Except as provided below, an extension of time to pay cannot exceed 12 months from the due date of the estate tax return.

You may extend the payment of the estate tax attributable to a reversionary or remainder interest in property until six months after the termination of the precedent interest(s) in the property.

To avoid penalties if the Tax Department denies your application for an **extension of time to pay**, you should file your application early enough so that the Tax Department can review the application and reply before the estate tax and return are due. We will notify you in writing of the Tax Department's decision. If we approve your application for an extension of time to pay, you must pay the tax by the extended due date.

A discretionary extension of time to pay for undue hardship under section 976(a)(3) may not exceed four years. For information on an extension of time granted to a closely held business under section 997, see Form ET-415, *Application for Deferred Payment of Estate Tax*.

The application must establish that it is an undue hardship for the executor to pay the full amount of the estate tax by the estate tax return due date

(nine months after the date of death). You must document any effort the estate has made to convert assets to pay the tax. Include information on the listing of real estate, loans, marketability of securities, and so forth.

In general, an extension of time to pay will be granted only for the amount of the cash shortage. You must show the amount of the estate tax (attach a copy of the return if it has already been filed; otherwise estimate the tax), the amount of the cash shortage (including a statement of the current assets in the estate and the assets already distributed), a plan for partial payments during the extension period, and the balance due. You must attach a check or money order payable in U.S. funds to the **Commissioner of Taxation and Finance** for the balance due. Write the decedent's social security number and **Estate tax** on the check or money order.

You must pay the part of the estate tax, including the accrued interest, for which the extension of time is granted by the extended due date. If you pay within this period, interest is computed from the date that is nine months after the date of death to the date of payment.

Specific instructions

Line 1 — Refer to federal Form 706, page 3, part 5, line 11; or Form 706-NA, page 2, Schedule B, line 1.

Line 4 — Estimated value of all gifts that would be taxable under section 2503 of the Internal Revenue Code made during the three-year period ending on the individual's date of death that were not otherwise included in the federal gross estate. Taxable gifts would not include any gift of real or tangible personal property located outside of New York State, any gift made when the individual was not a resident of New York State, any gift made prior to April 1, 2014, or any gifts made after January 1, 2019.

Line 5 — Estimated value of any property received under a Power of Appointment issued prior to 1930. For a definition of the term, *power of appointment*, refer to the Form ET-706-I that is applicable to dates of death on or after April 1, 2014.

Line 8 — Refer to federal Form 706, page 3, part 5, line 24; or Form 706-NA, page 2, Schedule B, line 8. Do not include deductions relating to property located outside of New York State. Also, for the estate of a nonresident, do not include deductions related to intangible property.

Line 10 — Compute the tax using the tax table on page 4 of Form ET-706. Subtract from the tax amount computed any applicable credit (see Form ET-706-I, page 4, line 3 instructions).

Where to file

Mail this form and your payment (if required) to: **NYS Estate Tax, Processing Center, PO Box 15167, Albany NY 12212-5167.**

Private delivery services — If you are not submitting your form by U.S. Mail, be sure to consult Publication 55, *Designated Private Delivery Services*, for the address and other information.

Penalties

Penalties may be imposed for failure to file the estate tax return within the extension period granted, or failure to pay the balance of the estate tax due within the extension period granted.

Bond

If an extension of time to pay is granted, the executor may be required to furnish a bond.

Need help?



Visit our Web site at **www.tax.ny.gov**
(for information, forms, and online services)



Estate Tax Information Center: (518) 457-5387
To order forms and publications: (518) 457-5431



Text Telephone (TTY) Hotline
(for persons with hearing and speech disabilities using a TTY): (518) 485-5082

Privacy notification — New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our Web site, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.