



NY EXTENDS THE THREE YEAR LOOK BACK FOR LIFETIME GIFTS WHEN CALCULATING THE NEW YORK ESTATE TAX

April 4, 2019

The New York estate tax exemption currently is \$5,740,000. The exemption is adjusted for inflation and will increase over time. The New York exemption is effectively phased out for estates that exceed the exemption amount by more than 5%, meaning that for estates that exceed this amount, the entire estate is subject to New York estate tax. The New York estate tax rates range from 3% to 16%.

Because New York does not have a gift tax, for many years people subject to New York estate tax have tried to avoid or reduce the tax due to New York at death by making large lifetime gifts. In 2014, New York passed a law that looked back and included gifts made within three years of death in the decedent's estate for the purpose of calculating the New York estate tax due ("Look Back Period"). However, the Look Back Period only applied to gifts made between April 1, 2014 and January 1, 2019.

In mid-January of 2019, Gov. Cuomo and the New York legislature passed a new budget that included a revival of this Look Back Period for gifts made between January 15, 2019 and January 1, 2026. Oddly, there is an exception for gifts made between January 1, 2019 and January 15, 2019. The estates of non-residents are not subject to the Look Back Period, even if they made a gift of New York property.