

(2) Except as provided in [paragraph (3)] PARAGRAPHS (3) THROUGH (7) of this subsection, if the federal estate tax is not in effect on the date of the decedent's death, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law as in effect on the date immediately preceding the effective date of the repeal of the federal estate tax.

(3) ~~[(i)]~~ ~~(H)~~ Notwithstanding any increase in the unified credit allowed against the federal estate tax for decedents dying after 2003, the unified credit used for determining the Maryland estate tax may not exceed the applicable credit amount corresponding to an applicable exclusion amount of ~~£~~ \$1,000,000 within the meaning of § 2010(c) of the Internal Revenue Code.] ~~\$2,000,000.~~

~~[(ii)]~~ ~~(H)~~ The Maryland estate tax shall be determined without regard to any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

~~(IV)~~ (III) UNLESS THE FEDERAL CREDIT ALLOWABLE BY § 2011 OF THE INTERNAL REVENUE CODE IS IN EFFECT ON THE DATE OF THE DECEDENT'S DEATH, THE FEDERAL CREDIT USED TO DETERMINE THE MARYLAND ESTATE TAX MAY NOT EXCEED AN AMOUNT EQUAL TO 16% OF THE AMOUNT BY WHICH THE DECEDENT'S ADJUSTED TAXABLE ESTATE, AS DEFINED IN § ~~2011(B)(3)~~ 2051 OF THE INTERNAL REVENUE CODE, EXCEEDS THE LESSER OF \$2,000,000 OR THE APPLICABLE EXCLUSION AMOUNT \$1,000,000.

(4) (I) [If a federal estate tax return is not required to be filed, the person responsible for paying the inheritance tax on property that passes from a decedent under Subtitle 2 of this title is responsible for filing a Maryland estate tax return and paying the Maryland estate tax imposed on the transfer of the Maryland estate of the decedent.] WITH REGARD TO AN ELECTION TO VALUE PROPERTY AS PROVIDED IN § 2032 OF THE INTERNAL REVENUE CODE, IF A FEDERAL ESTATE TAX RETURN IS NOT REQUIRED TO BE FILED:

1. AN IRREVOCABLE ELECTION MADE ON A TIMELY FILED MARYLAND ESTATE TAX RETURN SHALL BE DEEMED TO BE AN ELECTION AS REQUIRED BY § 2032(D) OF THE INTERNAL REVENUE CODE;

2. THE PROVISIONS OF § 2032(C) OF THE INTERNAL REVENUE CODE DO NOT APPLY; AND

3. AN ELECTION MAY NOT BE MADE UNDER ITEM 1 OF THIS SUBPARAGRAPH UNLESS THAT ELECTION WILL DECREASE:

A. THE VALUE OF THE GROSS ESTATE; AND

B. THE MARYLAND ESTATE TAX DUE WITH REGARD TO THE TRANSFER OF A DECEDENT'S MARYLAND ESTATE.