

Filing Requirements for Florida Estate Tax

What Forms are Required for Estates That Owe Florida Estate Tax?

If the decedent died on or before December 31, 2004, and the estate's gross value meets or exceeds minimum federal estate tax filing requirements, the personal representative must do the following within nine (9) months of the date of death:

- File federal Form 706 [United States Estate (and Generation-Skipping Transfer) Tax Return] with the Internal Revenue Service (IRS) and pay federal estate tax due; and
- File a signed copy of federal Form 706 with the Florida Department of Revenue and pay Florida estate tax due.

If the death occurs on or after January 1, 2000 but before January 1, 2005, the personal representative must comply with the two requirements listed above and:

- File Florida Form F-706 (Florida Estate Tax Return) with payment of Florida estate tax due.

If an extension of time is needed to file or make payment, a federal filing extension must first be requested from the IRS. When the approved extension is received from the IRS, a copy must be sent to the Department within 30 days.

Note: An extension of time to file does not extend the time to pay. Even with an approved extension, any Florida estate tax determined to be due is subject to interest from the original due date until paid. If you do not have an approved extension of time to pay, penalty will be assessed.

What Happens after Federal Form 706 is Filed?

When the signed copy of federal Form 706 and payment is received, the Florida Department of Revenue issues an acknowledgment letter to the personal representative. The representative is responsible for sending a copy of the letter to the IRS. The IRS reviews the federal estate tax return (federal Form 706) and may audit the estate. The audit can increase or decrease the amount of tax due. When the review is completed, the IRS issues a closing letter to the personal representative, who sends a copy of the closing letter to the Florida Department of Revenue. The Department reviews the closing letter and sends a Final Certificate to the personal representative.

Sale of Real Property

If the estate must sell or transfer real property before the Final Certificate is issued, the personal representative may apply for a waiver of the Florida estate tax lien by filing a *Request and Certificate for Waiver and Release of Florida Estate Tax Lien* (Florida Form DR-308). Upon the processing of Florida Form DR-308, certification releasing the

Florida estate tax lien is issued to the personal representative. A deposit may be required if the Department determines it necessary to cover the estate tax estimated to be due.

How is the Tax Calculated?

For Florida Residents

If all of the estate property was located in Florida, the amount shown as the credit for state death taxes on the federal return (federal Form 706) is the amount of Florida estate tax due. Florida Form F-706 and payment are due at the same time the federal estate tax is due.

If any of the property was located in other states, the Florida estate tax due is adjusted to allow for the amount of any estate taxes properly paid to other states. Along with payment and Florida Form F-706, the personal representative must send a signed copy of federal Form 706, signed copies of other state tax returns, and proof of payment for estate tax paid to other states. If a credit or refund from another state is received after the Florida estate tax is paid, this credit or refund amount must be paid to Florida with an amended Florida Form F-706.

For Residents of Other States

If a nonresident decedent owned Florida property, a pro rata portion of the credit for state death taxes (see Part II, Florida Form F-706) is due to Florida.

The pro rata portion of the estate tax due Florida is determined by the following formula:

$$\frac{\text{Gross Value of FL Property}^1}{\text{Gross Value of Entire Estate}^{2 \text{ or } 3}} \times \text{Federal Credit for State Death Taxes (from Form 706)} = \text{Florida Estate Tax}$$

¹"Florida property" is Florida real property, tangible personal property located in Florida, stock of Florida corporations, or certain other intangible personal property.

²For U.S. residents: Includes all property in which the decedent had any interest, including property outside the United States.

³For nonresident aliens: Includes all property in the United States.

This amount is due for nonresidents' estates regardless of the amount of estate taxes paid or to be paid to other states.

Penalty and Interest

Florida estate tax not paid by the due date (nine months from the date of death) or the date of the approved extension of time to pay is subject to a late payment penalty of 10

percent of the unpaid tax. If the tax is not paid by the 30th calendar day after the due date or the date of the approved extension of time to pay, the late payment penalty increases to 20 percent.

Interest is due on late payments and is calculated from the due date until paid. For late payments due on or before December 31, 1999, the interest rate is one percent per month. For late payments due on or after January 1, 2000, a floating rate of interest applies. The floating rates are updated January 1 and July 1 of each year by using the formula established in section 213.235, Florida Statutes and can be found on the Florida Department of Revenue's website.

IRS Audits

If federal Form 706 is audited by the IRS, send a copy of the changes to the Florida Department of Revenue within 30 days of receipt, along with any additional tax and interest due. If the audit results in a reduction of the Florida estate tax liability, apply for a refund using Florida Form F-706. Attach copies of the IRS documents to the form.

Domicile Disputes

To obtain a refund of estate tax when domicile in another state is involved or at issue, Florida must be named as a party to any settlement agreement between the estate and the other state, or Florida must be allowed to intervene in the court of the state where the domicile issue is being decided. Otherwise, refunds of Florida estate tax will not be made based on an assertion of domicile by another state.

Probate Inventory

The Florida Statutes state that a copy of the estate's probate inventory must be sent to the Florida Department of Revenue.

Send the copy of the probate inventory to:
Compliance Support
Florida Department Of Revenue
5050 W. Tennessee St.
Tallahassee, FL 32399-0100

Definitions:

Gross Value

The estate's gross value includes all property totally or partially owned such as: real estate, money, life insurance, annuities, stocks, bonds, accounts receivables and notes receivables, equipment, autos, furniture, artwork or jewelry.

Federal Estate Tax Filing Threshold

These federal filing thresholds are for informational purposes only. Please confirm with federal Form 706 instructions. Also see §2010 and 6018(a), Internal Revenue Code.

Date of Death	Minimum Filing Requirements
2000 and 2001	\$675,000
2002 and 2003	\$1,000,000
2004 and 2005	\$1,500,000
2006, 2007, 2008	\$2,000,000
2009	\$3,500,000

Proof of Payment

Proof of payment means the final certificate of payment showing the specific amounts of tax, penalty, or interest assessed and paid.

Properly Paid

Properly paid means net of any refunds claimed or to be claimed in the future.