

## **Illinois Estate Tax Applies to Residents and Nonresidents with Illinois Property**

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### **Illinois Estate Tax**

Illinois is one of the twelve states and the District of Columbia that impose an estate tax on a portion of a person's assets upon death. The Illinois estate tax has a significantly lower exemption and broader reach than the federal estate tax system.

The exemption threshold for Illinois estate tax has been set at \$4 million since 2013, which is notably lower than the 2024 federal estate tax exemption of \$13.61 million. This means that if the gross adjusted value of an estate exceeds \$4 million, the Illinois resident estate will owe Illinois estate tax even if no federal estate tax is due. Illinois estate tax rates range from 0.8 percent to 16 percent.

It is important to note that the Illinois exemption is not portable between spouses, unlike the federal exemption, which means careful estate planning is crucial to minimize potential estate tax liabilities for Illinois residents. Even nonresidents with Illinois assets may get hit with Illinois estate taxes. This article examines the Illinois estate tax structure for both residents and nonresidents.

### **Residents**

For residents, Illinois estate taxes are calculated on the net value of the decedent's assets after permitted deductions. Unlike federal regulations, Illinois mandates the inclusion of lifetime taxable gifts—those surpassing the annual exclusion limit—when determining the full taxable estate. So substantial gifts to minimize federal estate taxes could still come back to haunt you under the Illinois rules.

However, real estate and tangible personal property located outside Illinois are exempt from state estate tax for decedents who were Illinois residents.

### **Nonresidents**

When it comes to nonresidents with Illinois property, the rules differ. If a nonresident's estate includes real estate or tangible personal property in Illinois, the estate could be subject to Illinois estate tax based on the value of that property. Notably, intangible assets like stocks or business interests are exempt from this state tax.

Illinois estate tax is applicable if the nonresident's entire estate exceeds the \$4 million exemption. The tax due is proportionally based on the value of the Illinois assets relative to the entire estate. For instance, if a Florida resident owned a home in Illinois

and passed away with an estate valued over \$4 million, the Illinois property could trigger state estate tax obligations.

Nonresident decedents with Illinois property need to be aware of the potential Illinois estate tax implications and should plan accordingly to ensure that their heirs are not burdened with unexpected tax liabilities.

### **Minimizing Illinois Estate Tax**

Gifts within the annual exclusion limits can reduce both federal and Illinois estate sizes. The 2024 annual gift tax exclusion is \$18,000 per recipient.

For those considering relocation out of Illinois while maintaining Illinois property, transferring real estate to a limited liability company can convert ownership to intangible property, potentially circumventing Illinois estate taxes.

### **Illinois QTIP Election**

Married couples in Illinois can defer state estate taxes at their spouse's death by placing assets into a qualifying terminable interest property (QTIP) trust and making the proper Illinois QTIP election on the estate tax return. An Illinois QTIP trust has specific requirements, which are generally similar to the federal QTIP requirements. This deferral persists until the surviving spouse, if an Illinois resident at the time of death, passes away. If the surviving spouse relocates outside of Illinois, the deferred Illinois estate tax may not be applicable.

As with the federal estate tax system, careful planning is necessary to minimize Illinois estate taxes for residents and non-residents with property in Illinois.

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