

STATE OF NEW YORK

3462

2021-2022 Regular Sessions

IN SENATE

January 29, 2021

Introduced by Sens. BRISPORT, SALAZAR -- read twice and ordered printed,
and when printed to be committed to the Committee on Budget and Revenue

AN ACT to amend the tax law, in relation to establishing separate taxes
on inheritance income and on gift income, amending the estate tax, and
establishing a gift tax

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The tax law is amended by adding two new sections 604 and
2 604-a to read as follows:

3 § 604. Separate tax on inheritance income. (a) Definitions. For the
4 purposes of this section, the following terms have the following mean-
5 ings:

6 (1) Except as otherwise provided in subsection (c) of this section,
7 "inheritance income" means any income excluded for federal tax purposes
8 from federal adjusted gross income pursuant to subsection (a) of section
9 one hundred two of the internal revenue code that is received from any
10 estate, regardless of the residence of the decedent of such estate,
11 after the federal estate tax has been paid on such income.

12 (2) "Family member" means "member of the family" as such term is
13 defined in paragraph (2) of subsection (e) of section two thousand thir-
14 ty-two-A of the internal revenue code.

15 (b) Imposition of separate tax. (1) In addition to any other tax
16 imposed by this article, there is hereby imposed for each taxable year a
17 separate tax on the total amount of inheritance income received from any
18 estate of a decedent during such taxable year by any individual who was
19 a New York state resident on the date of death of such decedent.

20 (2) The tax imposed by this subsection shall be computed as provided
21 in section six hundred twenty-four-a of this article with respect to
22 residents and section six hundred thirty-seven-a of this article with
23 respect to nonresidents and part-year residents.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (c) Exclusions from inheritance income. (1) Educational or medical
2 expenses. A qualified transfer, as such term is defined in paragraph (2)
3 of subsection (e) of section two thousand five hundred three of the
4 internal revenue code, shall not be considered inheritance income for
5 purposes of this section.

6 (2) Spousal transfers. Transfers of property from a spouse shall not
7 be considered inheritance income for purposes of this section.

8 (3) Retirement accounts. Transfers of property consisting of pensions,
9 health savings accounts, or retirement accounts established pursuant to
10 sections four hundred one, four hundred three, four hundred eight, four
11 hundred eight-A, or four hundred fifty-seven of the internal revenue
12 code shall not be considered inheritance income for purposes of this
13 section.

14 (4) Certain residences. An individual subject to the tax imposed by
15 this section may claim not more than one of the following exclusions
16 from inheritance income, and may not claim either such exclusion for
17 more than one transfer of real property:

18 (A) Primary residences. For real property transferred to a resident,
19 nonresident or part-year resident individual that (i) serves as the
20 primary residence of the transferor of such property or of the resident,
21 nonresident, or part-year resident transferee for the ten consecutive
22 years preceding such transfer or (ii) serves as the primary residence of
23 such transferee for the five consecutive years following such transfer,
24 up to one million seven hundred fifty thousand dollars of the value of
25 such property shall not be considered inheritance income for purposes of
26 this section.

27 (B) Residential homes purchased with a federal housing administration
28 insured mortgage. For a residential home transferred to a resident,
29 nonresident or part-year resident individual that was purchased with a
30 federal housing administration insured mortgage, up to seven hundred
31 fifty thousand dollars of the value of such home shall not be considered
32 inheritance income for purposes of this section.

33 (5) Family farms. A transfer to a resident, nonresident or part-year
34 resident individual from the estate of a decedent who is a family member
35 of such individual of farmland and farm equipment shall not be consid-
36 ered inheritance income for purposes of this section provided that the
37 total value of inheritance income (including the value of such farmland
38 and farm equipment) received by such individual from such estate does
39 not exceed five million dollars, and provided further that the value of
40 such farmland and equipment constitutes over fifty percent of the total
41 value of such inheritance income received from such estate.

42 (d) Deferrals. (1) Primary residence liquidity deferral. A resident,
43 nonresident or part-year resident individual who in a taxable year
44 receives from a single estate inheritance income totaling less than five
45 million dollars, over fifty percent of the total value of which consists
46 of real property that will serve as the primary residence of such indi-
47 vidual, may elect to defer payment of the tax imposed by this section
48 until the time at which such individual sells such real property or
49 ceases using such property as a primary residence.

50 (2) Family-owned business liquidity deferral. (A) A resident, nonresi-
51 dent or part-year resident individual who in a taxable year receives
52 from the estate of a decedent who is a family member of such individual
53 inheritance income totaling less than five million dollars, over fifty
54 percent of the total value of which consists of equity interests in a
55 family-owned business, may elect to defer payment of the tax imposed by
56 this section until the time at which such individual sells such busi-

1 ness, provided that during the time of deferral interest will accrue on
2 the amount of such tax at a rate equal to the federal short-term rate as
3 provided under paragraph three of subsection (j) of section six hundred
4 ninety-seven of this article.

5 (B) For the purposes of this paragraph, "family-owned business" means
6 a business for which, at the time ownership of such business is trans-
7 ferred to a resident, nonresident or part-year resident individual, the
8 transferor of such business or family members of such transferor collec-
9 tively have retained majority ownership and have materially participated
10 in the operation of such business for the ten consecutive years proceed-
11 ing such transfer.

12 § 604-a. Separate tax on gift income. (a) Definitions. For the
13 purposes of this section, the following terms have the following mean-
14 ings:

15 (1) "Gift income" means the value of any taxable gifts, as such term
16 is defined in section one thousand of this chapter, received by an indi-
17 vidual who is a New York state resident at the time of receiving such
18 gifts.

19 (2) "Family member" means "member of the family" as such term is
20 defined in paragraph (2) of subsection (e) of section two thousand thir-
21 ty-two-A of the internal revenue code.

22 (b) Imposition of separate tax. (1) In addition to any other tax
23 imposed by this article, there is hereby imposed for each taxable year a
24 separate tax on gift income received during such taxable year by any
25 resident or part-year resident individual.

26 (2) The tax imposed by this section shall be computed as provided in
27 section six hundred twenty-four-b of this article with respect to resi-
28 dents and section six hundred thirty-seven-b of this article with
29 respect to part-year residents.

30 (c) Exclusions from gift income. (1) Educational or medical expenses.
31 A qualified transfer, as such term is defined in paragraph (2) of
32 subsection (e) of section two thousand three of the internal revenue
33 code, shall not be considered gift income for purposes of this section.

34 (2) Spousal transfers. Transfers of property from a spouse shall not
35 be considered gift income for purposes of this section.

36 (3) Retirement accounts. Transfers of property consisting of pensions,
37 health savings accounts, or retirement accounts established pursuant to
38 sections four hundred one, four hundred three, four hundred eight, four
39 hundred eight-A, or four hundred fifty-seven of the internal revenue
40 code shall not be considered gift income for purposes of this section.

41 (4) Family farms. A transfer to a resident or part-year resident indi-
42 vidual from a donor who is a family member of such individual of farm-
43 land and farm equipment shall not be considered gift income for purposes
44 of this section provided that the total value of gift income (including
45 the value of such farmland and farm equipment) received by such individ-
46 ual from such donor does not exceed one million dollars.

47 (d) Family-owned business liquidity deferral. (1) A resident or part-
48 year resident individual who in a taxable year receives from a donor who
49 is a family member of such individual gift income totaling less than
50 five million dollars, over fifty percent of the total value of which
51 consists of equity interests in a family-owned business, may elect to
52 defer payment of the tax imposed by this section until the time at which
53 such individual sells such equity interests, provided that during the
54 time of deferral interest will accrue on the amount of such tax at a
55 rate equal to the federal short-term rate as provided under paragraph

three of subsection (j) of section six hundred ninety-seven of this article.

(2) For the purposes of this subsection, "family-owned business" means a business for which, at the time ownership of such business is transferred to a resident or part-year resident individual, the transferor of such business or family members of such transferor collectively have retained majority ownership and have materially participated in the operation of such business for the ten consecutive years proceeding such transfer.

§ 2. The tax law is amended by adding a new section 620-b to read as follows:

§ 620-b. Credit against separate tax on inheritance income. A resident shall be allowed a credit against the tax imposed by section six hundred four of this article in the amount of the estate tax imposed by article twenty-six of this chapter or any estate or inheritance tax imposed by another state of the United States, a political subdivision of such state, or the District of Columbia, upon any inheritance income, as such term is defined in such section, received by such resident in a taxable year. Such resident may elect to calculate the amount of such credit in accordance with either subsection (a) or subsection (b) of this section.

(a) The amount of credit allowed pursuant to this section may be calculated by multiplying the total amount of estate or inheritance tax imposed by this state, another state of the United States, a political subdivision of such state, or the District of Columbia on the estate from which such resident has received inheritance income by a fraction, the numerator of which is the amount of inheritance income received by such resident from such estate and the denominator of which is the total value of such estate after the federal estate tax has been paid but before the estate tax of this state, or any estate or inheritance tax imposed by another state of the United States, a political subdivision of such state, or the District of Columbia, has been paid. In order to calculate such credit in accordance with this subsection, such resident must know the total amount of estate or inheritance tax imposed on such estate by this state, another state of the United States, a political subdivision of such state, or the District of Columbia and the total value of such estate after the federal estate tax has been paid but before the estate or inheritance tax of this state, another state of the United States, a political subdivision of such state, or the District of Columbia, has been paid.

(b) The amount of credit allowed pursuant to this section may be calculated as equal to the amount of estate tax or inheritance tax of this state, another state of the United States, a political subdivision of such state, or the District of Columbia, that would be imposed on the estate from which such resident receives inheritance income as if such inheritance income were equal to the total value of such estate.

§ 3. The tax law is amended by adding two new sections 624-a and 624-b to read as follows:

§ 624-a. Computation of separate tax on inheritance income received by a resident individual. The amount of tax imposed under section six hundred four of this article for any taxable year, with respect to inheritance income received by a resident individual, shall be determined in accordance with the following table:

<u>For taxable years beginning after two thousand twenty:</u>	
<u>If the inheritance income is:</u>	<u>The tax is:</u>
<u>Not over \$250,000</u>	<u>0% of inheritance income</u>
<u>Over \$250,000 but not over \$500,000</u>	<u>\$0 plus 5% of excess over \$250,000</u>

1	<u>Over \$500,000 but not over</u>	<u>\$12,500 plus 15% of excess over</u>
2	<u>\$1,000,000</u>	<u>\$500,000</u>
3	<u>Over \$1,000,000 but not over</u>	<u>\$87,500 plus 30% of excess over</u>
4	<u>\$2,000,000</u>	<u>\$1,000,000</u>
5	<u>Over \$2,000,000 but not over</u>	<u>\$387,000 plus 40% of excess over</u>
6	<u>\$10,000,000</u>	<u>\$2,000,000</u>
7	<u>Over \$10,000,000</u>	<u>\$3,587,500 plus 50% of excess over</u>
8		<u>\$10,000,000</u>

9 § 624-b. Computation of separate tax on gift income received by a
10 resident individual. The amount of tax imposed under section six hundred
11 four-a of this part for any taxable year, with respect to gift income
12 received by a resident individual, shall be determined in accordance
13 with the following table:

14	<u>If the gift income is:</u>	<u>The tax is:</u>
15	<u>Not over \$50,000</u>	<u>0% of gift income</u>
16	<u>Over \$50,000 but not over \$100,000</u>	<u>\$0 plus 5% of excess over \$50,000</u>
17	<u>Over \$100,000 but not over</u>	<u>\$2,500 plus 15% of excess over</u>
18	<u>\$200,000</u>	<u>\$100,000</u>
19	<u>Over \$200,000 but not over</u>	<u>\$17,500 plus 30% of excess over</u>
20	<u>\$400,000</u>	<u>\$200,000</u>
21	<u>Over \$400,000 but not over</u>	<u>\$77,500 plus 40% of excess over</u>
22	<u>\$2,000,000</u>	<u>\$400,000</u>
23	<u>Over \$2,000,000</u>	<u>\$717,500 plus 50% of excess over</u>
24		<u>\$2,000,000</u>

25 § 4. The tax law is amended by adding three new sections 637-a, 637-b
26 and 640 to read as follows:

27 § 637-a. Computation of separate tax on inheritance income received by
28 nonresident or part-year resident individuals. The amount of tax imposed
29 under section six hundred four of this article for any taxable year,
30 with respect to inheritance income received by a nonresident or part-
31 year resident individual, shall be determined in accordance with the
32 following table:

33 (a) For taxable years beginning after two thousand twenty:

34	<u>If the inheritance income is:</u>	<u>The tax is:</u>
35	<u>Not over \$250,000</u>	<u>0% of inheritance income</u>
36	<u>Over \$250,000 but not over \$500,000</u>	<u>\$0 plus 5% of excess over \$250,000</u>
37	<u>Over \$500,000 but not over</u>	<u>\$12,500 plus 15% of excess over</u>
38	<u>\$1,000,000</u>	<u>\$500,000</u>
39	<u>Over \$1,000,000 but not over</u>	<u>\$87,500 plus 30% of excess over</u>
40	<u>\$2,000,000</u>	<u>\$1,000,000</u>
41	<u>Over \$2,000,000 but not over</u>	<u>\$387,000 plus 40% of excess</u>
42	<u>\$10,000,000</u>	<u>over \$2,000,000</u>
43	<u>Over \$10,000,000</u>	<u>\$3,587,500 plus 50% of excess over</u>
44		<u>\$10,000,000</u>

45 § 637-b. Computation of separate tax on gift income received by part-
46 year resident individuals. The amount of tax imposed under section six
47 hundred four-a of this article for any taxable year, with respect to
48 gift income received by a part-year resident individual, shall be deter-
49 mined in accordance with the following table:

50	<u>If the gift income is:</u>	<u>The tax is:</u>
51	<u>Not over \$50,000</u>	<u>0% of gift income</u>
52	<u>Over \$50,000 but not over \$100,000</u>	<u>\$0 plus 5% of excess over \$50,000</u>
53	<u>Over \$100,000 but not over \$200,000</u>	<u>\$2,500 plus 15% of excess over</u>
54		<u>\$100,000</u>
55	<u>Over \$200,000 but not over</u>	<u>\$17,500 plus 30% of excess over</u>
56	<u>\$400,000</u>	<u>\$200,000</u>

1	<u>Over \$400,000 but not over</u>	<u>\$77,500 plus 40% of excess over</u>
2	<u>\$2,000,000</u>	<u>\$400,000</u>
3	<u>Over \$2,000,000</u>	<u>\$717,500 plus 50% of excess over</u>
4		<u>\$2,000,000</u>

5 § 640. Credits against separate tax on inheritance income. A nonresi-
6 dent or part-year resident individual shall be allowed a credit against
7 the tax imposed by section six hundred four of this article in the
8 amount of the estate tax imposed by article twenty-six of this chapter,
9 or of any estate or inheritance tax imposed by another state of the
10 United States, a political subdivision of such state, or the District of
11 Columbia, upon any inheritance income, as such term is defined in such
12 section, received by such individual in a taxable year. Such individual
13 may elect to calculate the amount of such credit in accordance with
14 either subsection (a) or subsection (b) of this section.

15 (a) The amount of credit allowed pursuant to this section may be
16 calculated by multiplying the total amount of estate or inheritance tax
17 imposed by this state, another state of the United States, a political
18 subdivision of such state, or the District of Columbia on the estate
19 from which such individual has received inheritance income by a frac-
20 tion, the numerator of which is the amount of inheritance income
21 received by such individual from such estate and the denominator of
22 which is the total value of such estate after the federal estate tax has
23 been paid but before the estate tax of this state, or any estate or
24 inheritance tax imposed by another state of the United States, a poli-
25 tical subdivision of such state, or the District of Columbia, has been
26 paid. In order to calculate such credit in accordance with this
27 subsection, such individual must know the total amount of estate or
28 inheritance tax imposed on such estate by this state, another state of
29 the United States, a political subdivision of such state, or the
30 District of Columbia and the total value of such estate after the feder-
31 al estate tax has been paid but before the estate or inheritance tax of
32 this state, another state of the United States, a political subdivision
33 of such state, or the District of Columbia, has been paid.

34 (b) The amount of credit allowed pursuant to this section may be
35 calculated as equal to the amount of estate tax or inheritance tax of
36 this state, another state of the United States, a political subdivision
37 of such state, or the District of Columbia that would be imposed on the
38 estate from which such individual receives inheritance income as if such
39 inheritance income were equal to the total value of such estate.

40 § 5. Section 951-a of the tax law is amended by adding a new
41 subsection (g) to read as follows:

42 (g) The term "New York taxable gifts" has the same meaning as provided
43 in section one thousand of this chapter.

44 § 6. Section 952 of the tax law, as amended by section 2 of part X of
45 chapter 59 of the laws of 2014, subsection (b) as amended by section 1
46 of part BB of chapter 59 of the laws of 2015, is amended to read as
47 follows:

48 § 952. Tax imposed. (a) A tax is hereby imposed on the transfer of the
49 New York estate by every deceased individual who at his or her death was
50 a resident of New York state.

51 (b) Computation of tax. The tax imposed by this section shall be
52 computed on the deceased resident's New York taxable estate as follows:

53 (1) In the case of decedents dying before April 1, 2021:

54	If the New York taxable estate is:	The tax is:
55	Not over \$500,000	3.06% of taxable estate
56	Over \$500,000 but not over \$1,000,000	\$15,300 plus 5.0% of excess over

1		\$500,000
2	Over \$1,000,000 but not over \$1,500,000	\$40,300 plus 5.5% of excess over
3		\$1,000,000
4	Over \$1,500,000 but not over \$2,100,000	\$67,800 plus 6.5% of excess over
5		\$1,500,000
6	Over \$2,100,000 but not over \$2,600,000	\$106,800 plus 8.0% of excess
7		over \$2,100,000
8	Over \$2,600,000 but not over \$3,100,000	\$146,800 plus 8.8% of excess over
9		\$2,600,000
10	Over \$3,100,000 but not over \$3,600,000	\$190,800 plus 9.6% of excess over
11		\$3,100,000
12	Over \$3,600,000 but not over \$4,100,000	\$238,800 plus 10.4% of excess
13		over \$3,600,000
14	Over \$4,100,000 but not over \$5,100,000	\$290,800 plus 11.2% of excess
15		over \$4,100,000
16	Over \$5,100,000 but not over \$6,100,000	\$402,800 plus 12.0% of excess
17		over \$5,100,000
18	Over \$6,100,000 but not over \$7,100,000	\$522,800 plus 12.8% of excess
19		over \$6,100,000
20	Over \$7,100,000 but not over \$8,100,000	\$650,800 plus 13.6% of excess
21		over \$7,100,000
22	Over \$8,100,000 but not over \$9,100,000	\$786,800 plus 14.4% of excess
23		over \$8,100,000
24	Over \$9,100,000 but not over	\$930,800 plus 15.2% of excess over
25	\$10,100,000	\$9,100,000
26	Over \$10,100,000	\$1,082,800 plus 16.0% of excess
27		over \$10,100,000

(2) In the case of decedents dying on or after April 1, 2021:

If the New York taxable estate plus The tax is:

the lifetime amount of New York

taxable gifts is:

Not over \$750,000

0% of taxable estate

Over \$750,000 but not over

\$0 plus 5% of excess over \$750,000

\$1,500,000

Over \$1,500,000 but not over

\$37,500 plus 15% of excess over

\$3,000,000

\$1,500,000

Over \$3,000,000 but not over

\$262,500 plus 30% of excess over

\$6,000,000

\$3,000,000

Over \$6,000,000 but not over

\$1,162,500 plus 40% of excess

\$30,000,000

over \$6,000,000

Over \$30,000,000

\$10,762,500 plus 50% of excess over

\$30,000,000

(c) Applicable credit amount. (1) [A] In the case of any decedent dying before April first, two thousand twenty-one, a

credit of the applicable credit amount shall be allowed against the tax imposed by this section as provided in this subsection. In the case of such a decedent whose New York taxable estate is less than or equal to the basic

exclusion amount, the applicable credit amount shall be the amount of tax that would be due under subsection (b) of this section on such

decedent's New York taxable estate. In the case of such a decedent whose New York taxable estate exceeds the basic exclusion amount by an amount

that is less than or equal to five percent of such amount, the applicable credit amount shall be the amount of tax that would be due under

subsection (b) of this section if the amount on which the tax is to be computed were equal to the basic exclusion amount multiplied by one

minus a fraction, the numerator of which is the decedent's New York

1 taxable estate minus the basic exclusion amount, and the denominator of
 2 which is five percent of the basic exclusion amount. Provided, however,
 3 that the credit allowed by this subsection shall not exceed the tax
 4 imposed by this section, and no credit shall be allowed to the estate of
 5 any decedent whose New York taxable estate exceeds one hundred five
 6 percent of the basic exclusion amount.

7 (2) (A) For purposes of this section, the basic exclusion amount shall
 8 be as follows:

9 In the case of decedents dying on or after: The basic exclusion amount
 10 is:

11 April 1, 2014 and before April 1, 2015	\$ 2,062,500
12 April 1, 2015 and before April 1, 2016	3,125,000
13 April 1, 2016 and before April 1, 2017	4,187,500
14 April 1, 2017 and before January 1, 2019	5,250,000

15 (B) In the case of any decedent dying [~~in a calendar year beginning~~]
 16 on or after January first, two thousand nineteen and before April first,
 17 two thousand twenty-one, the basic exclusion amount shall be equal to:

18 (i) five million dollars, multiplied by
 19 (ii) one plus the cost-of-living adjustment, which shall be the
 20 percentage by which the consumer price index for the preceding calendar
 21 year exceeds the consumer price index for calendar year two thousand
 22 ten.

23 (C) (i) For purposes of this paragraph, "consumer price index" means
 24 the most recent consumer price index for all-urban consumers published
 25 by the United States department of labor.

26 (ii) For purposes of clause (ii) of subparagraph (B) of this para-
 27 graph, the consumer price index for any calendar year shall be the aver-
 28 age of the consumer price index as of the close of the twelve-month
 29 period ending on August thirty-first of such calendar year.

30 (iii) If any amount adjusted under this paragraph is not a multiple of
 31 ten thousand dollars, such amount shall be rounded to the nearest multi-
 32 ple of ten thousand dollars.

33 (d) Credit for lifetime gift taxes paid. In the case of a decedent
 34 dying on or after April first, two thousand twenty-one, a credit shall
 35 be allowed against the tax imposed by this section equal to the total
 36 amount of gift tax imposed by section one thousand one of this chapter
 37 paid by such decedent during the lifetime of such decedent.

38 § 7. Subsection (a) of section 954 of the tax law is amended by adding
 39 six new paragraphs 5, 6, 7, 8, 9 and 10 to read as follows:

40 (5) Reduced by the amount of any qualified transfer, as such term is
 41 defined in paragraph (2) of subsection (e) of section two thousand five
 42 hundred three of the internal revenue code, to the extent the amount of
 43 such transfer is included in the decedent's federal gross estate.

44 (6) Reduced by the value of any transfers of property consisting of
 45 pensions, health savings accounts, or retirement accounts established
 46 pursuant to sections four hundred one, four hundred three, four hundred
 47 eight, four hundred eight-A, or four hundred fifty-seven of the internal
 48 revenue code to the extent the amount of any such transfer is included
 49 in the decedent's federal gross estate.

50 (7) Reduced by one of the following, but not both, with respect to not
 51 more than one transfer of real property:

52 (A) Up to one million seven hundred fifty thousand dollars of the
 53 value of real property transferred to an individual that (i) served as
 54 the primary residence of the decedent or of such individual for the ten
 55 consecutive years preceding such transfer or (ii) serves as the primary
 56 residence of such individual for the five consecutive years following

1 such transfer to the extent the value of such real property is included
2 in the decedent's federal gross estate; or

3 (B) Up to seven hundred fifty thousand dollars of the value of a resi-
4 dential home that was purchased with a federal housing administration
5 insured mortgage to the extent the value of such residential home is
6 included in the decedent's federal gross estate.

7 (8) Reduced by the value of farmland and farm equipment transferred to
8 an individual from the estate of a family member of such individual to
9 the extent the value of such farmland and equipment is included in the
10 decedent's federal gross estate, provided that the total value of all
11 transfers from such estate to such individual is less than five million
12 dollars, and provided further that the value of such farmland and equip-
13 ment constitutes over fifty percent of the total value of such trans-
14 fers. For the purposes of this paragraph, "family member" has the same
15 meaning as provided in section six hundred four of this chapter.

16 (9) Reduced by the value of real property transferred by the estate of
17 the decedent to an individual who was a resident of this state on the
18 date of death of such decedent that will serve as the primary residence
19 of such individual, provided that the total value of all transfers from
20 such estate to such individual is less than five million dollars and
21 provided that the value of such real property constitutes over fifty
22 percent of the total value of such transfers; and provided further that
23 such estate and such individual agree in writing at the time of transfer
24 that such individual will be liable for any inheritance tax imposed by
25 section six hundred four of this chapter on the transfer of such proper-
26 ty that may be deferred and paid upon disposition of such property as
27 provided in paragraph one of subsection (d) of such section.

28 (10) Reduced by the value of a family-owned business transferred by
29 the estate of the decedent to an individual who was a resident of this
30 state on the date of death of such decedent, provided that the total
31 value of all transfers from such estate to such individual is less than
32 five million dollars and provided that the value of such family-owned
33 business constitutes over fifty percent of the total value of such
34 transfers; and provided further that such estate and such individual
35 agree in writing at the time of transfer that such individual will be
36 liable for any inheritance tax imposed by section six hundred four of
37 this chapter on the transfer of such family-owned business that may be
38 deferred and paid upon disposition of such business as provided in para-
39 graph two of subsection (d) of such section. For the purposes of this
40 paragraph, the term "family-owned business" has the same meaning as
41 provided in subparagraph (B) of paragraph two of subsection (d) of
42 section six hundred four of this chapter.

43 § 8. Subsection (a) of section 955 of the tax law, as added by section
44 4 of part X of chapter 59 of the laws of 2014, is amended to read as
45 follows:

46 (a) General.--The taxable estate of a New York resident shall be his
47 or her New York gross estate, minus the deductions allowable for deter-
48 mining his or her federal taxable estate under the internal revenue code
49 (whether or not a federal estate tax return is required to be filed),
50 except to the extent that such deductions relate to real or tangible
51 personal property situated outside New York state, reduced by the amount
52 of federal estate tax imposed on the estate of such resident, provided
53 that with respect to the estate of a decedent who on the date of such
54 decedent's death was a not a resident of New York, the New York gross
55 estate shall be reduced only by an amount equal to the total amount of
56 federal estate tax imposed on such estate multiplied by a fraction the

1 numerator of which is the value of property contained in such estate
2 that is subject to the tax imposed by section nine hundred sixty of this
3 part and the denominator of which is the total value of such estate.

4 § 9. The tax law is amended by adding a new article 26-A to read as
5 follows:

6 ARTICLE 26-A
7 GIFT TAX

8 Section 1000. Definitions.

9 1001. Tax imposed.

10 1002. Rate of tax.

11 1003. Administration.

12 § 1000. Definitions. (a) "Taxable gifts" means the transfers by gift
13 which are included in taxable gifts for federal gift tax purposes under
14 section 2503 and sections 2511 to 2514, inclusive, and sections 2516 to
15 2519, inclusive, of the internal revenue code, less the deductions
16 allowed in sections 2522 to 2524, inclusive, of such code.

17 (b) (1) Except as otherwise provided in paragraph two of this
18 subsection, "New York taxable gifts" means taxable gifts made during a
19 taxable year commencing on or after January first, two thousand twenty-
20 two, that are (i) for residents, taxable gifts, wherever located, except
21 for gifts of real estate or tangible personal property located outside
22 New York and (ii) for nonresidents of this state, gifts of real estate
23 or tangible personal property located within New York.

24 (2) Gifts made to any person by the donor during the calendar year for
25 which a tax is imposed on such person for the receipt of such gift by
26 this state, another state of the United States, a political subdivision
27 of such state, or the District of Columbia, including the tax imposed by
28 section six hundred four-a of this chapter, shall not for the purposes
29 of paragraph one of this subsection be included in the total amount of
30 New York taxable gifts made during such year.

31 (c) In the administration of the tax under this article, the commis-
32 sioner shall apply the provisions of sections 2701 to 2704, inclusive,
33 of the internal revenue code, and the term "secretary or his delegate"
34 as used in such sections means the commissioner.

35 § 1001. Tax imposed. For the calendar year commencing on January
36 first, two thousand twenty-two, and for each year thereafter, a tax
37 computed as provided in section one thousand two of this article is
38 hereby imposed on the transfer of property by gift during a taxable year
39 by any resident or nonresident individual.

40 § 1002. Rate of tax. With respect to New York taxable gifts, as
41 defined in section one thousand of this article, made by a donor during
42 a calendar year commencing on or after January first, two thousand twen-
43 ty-two, including the aggregate amount of all New York taxable gifts
44 made by the donor during all calendar years commencing on or after Janu-
45 ary first, two thousand twenty-two, the tax imposed by section one thou-
46 sand one of this article for the calendar year shall be at the rate set
47 forth in the following schedule, with a credit allowed against such tax
48 for any tax previously paid to this state pursuant to this section,
49 provided such credit shall not exceed the amount of tax imposed by this
50 section:

51 If the amount of New York
52 taxable gifts is:

53 Not over \$750,000
54 Over \$750,000 but not over
55 \$1,500,000
56 Over \$1,500,000 but not over

The tax is:
0% of taxable gifts
\$0 plus 5% of excess over \$750,000
\$37,500 plus 15% of excess over

1	<u>\$3,000,000</u>	<u>\$1,500,000</u>
2	<u>Over \$3,000,000 but not over</u>	<u>\$262,500 plus 30% of excess over</u>
3	<u>\$6,000,000</u>	<u>\$3,000,000</u>
4	<u>Over \$6,000,000 but not over</u>	<u>\$1,162,500 plus 40% of excess</u>
5	<u>\$30,000,000</u>	<u>over \$6,000,000</u>
6	<u>Over \$30,000,000</u>	<u>\$10,762,500 plus 50% of excess over</u>
7		<u>\$30,000,000</u>

8 § 1003. Administration. The commissioner shall promulgate rules and
9 regulations necessary and appropriate to effectuate the provisions of
10 this article, including the establishment of deadlines and procedures
11 for the filing of gift tax returns by any resident or nonresident of
12 this state who gave New York taxable gifts during a taxable year.

13 § 10. This act shall take effect immediately.