

Estate Tax

This tax applies to property passing, or deemed to pass, at death. All the property of persons who were domiciled in Canada before their death must be taken into consideration, no matter where that property is situated; for persons dying domiciled outside of Canada, only their property situated in Canada is subject to tax.

In computing the tax of a Canadian domiciliary, the value of the whole estate is first determined. Once the aggregate value of the estate has been determined, estate debts and certain expenses may be deducted. From the resulting "aggregate net value" there may be deducted the amount of a basic exemption, which is increased where the decedent leaves a widow or dependent child, and also the amount of any charitable bequests to charitable organizations in Canada. After these deductions, the amount left is the "aggregate taxable value", to which is applied the tax rates. From the tax so calculated may be deducted: (1) a tax abatement in respect of property situated in a province that levies a succession duty; (2) a credit for gift tax paid on gifts made within 3 years of death (the value of which must be included in the aggregate net value of the estate); and (3) a credit for foreign taxes.

No estate valued at less than \$50,000 is subject to estate tax. This \$50,000 is not an exemption but the starting point for tax. The estate tax must not reduce the value of an estate after tax to less than \$50,000. The basic deductible exemption which applies to all estates of Canadian domiciliaries is \$40,000. This basic exemption of \$40,000 is increased to \$60,000 in respect of a deceased male survived by a spouse, or in respect of a deceased female survived by an incapacitated spouse and a dependent child. In both cases, there is an additional exemption of \$10,000 for each surviving dependent child (i.e., under 21). Finally, the basic exemption of \$40,000 is increased by \$15,000 for every surviving dependent child made an orphan by the death of the deceased.

The tax on the estates of Canadian domiciliaries is calculated by applying a graduated scale of rates. For an aggregate taxable value of \$5,000 or less, the rate is 10 percent. For an aggregate taxable value of \$100,000, the tax is \$19,000 and anything between \$100,000 and \$150,000 is taxed at 24 percent. At \$2 million of taxable value, the tax is \$816,500 and the excess over \$2 million is chargeable at the highest rate of 54 percent. (For the complete rate schedule see Section 8 of the Act.)

As stated above, there is an abatement from federal estate taxes otherwise payable in respect of provincial succession duties. Generally, the abatement is a deduction of 50 percent from the federal tax otherwise payable in respect of property situated in a province that levies succession duties.

The property situated in Canada of a decedent not domiciled in Canada is subject to estate tax at a flat rate of 15 percent. No deduction is allowed against the assessed value of such property, except for debts specifically chargeable to it. However, there is a special provision that exempts all such property of less than \$5,000 value and also provides that the tax must not reduce the value of the property to less than \$5,000. (A new Estate Tax Convention between Canada and the United States ratified recently increases this figure to \$15,000. The change is retroactive to January 1, 1959.) Where property is subject to provincial duties the 15 percent tax is abated by 50 percent.