

TITLE 3: TAXATION
CHAPTER 8: ESTATE TAX
PART 3: CREDIT FOR TAX PAID TO OTHER STATE

3.8.3.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630
[7/15/96; 3.8.3.1 NMAC - Rn, 3 NMAC 8.3.1, 12/14/00]

3.8.3.2 SCOPE: Provisions of this Part apply to every person subject to the Estate Tax Act.
[7/15/96; 3.8.3.2 NMAC - Rn, 3 NMAC 8.3.2, 12/14/00]

3.8.3.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act.
[7/15/96; 3.8.3.3 NMAC - Rn, 3 NMAC 8.3.3, 12/14/00]

3.8.3.4 DURATION: Permanent.
[7/15/96; 3.8.3.4 NMAC - Rn, 3 NMAC 8.3.4, 12/14/00]

3.8.3.5 EFFECTIVE DATE: 7/15/96, unless a later date is cited at the end of a section, in which case the later date is the effective date. The effective date of the Estate Tax Act was July 1, 1973. (Laws 1973, Ch. 345, Section 18) The Estate Tax Act and this Part apply to estates where decedent passed away after June 30, 1973. Pursuant to Section 7-1-5(H) NMSA 1978 of the Tax Administration Act, the Estate Tax Act regulations filed August 5, 1974 were declared to be effective July 1, 1973. The amendments to those regulations adopted by TRD Rule 7-88 were effective on September 15, 1988.
[7/15/96; 3.8.3.5 NMAC - Rn & A, 3 NMAC 8.3.5, 12/14/00]

3.8.3.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Estate Tax Act.
[7/15/96; 3.8.3.6 NMAC - Rn, 3 NMAC 8.3.6, 12/14/00]

3.8.3.7 DEFINITIONS: [Reserved]
[7/15/96; 3.8.3.7 NMAC - Rn, 3 NMAC 8.3.7, 12/14/00]

3.8.3.8 CALCULATION OF CREDIT FOR TAX PAID OTHER STATE; EXAMPLES

A. The following examples illustrate the application of Section 7-7-3 NMSA 1978. The federal credit in each case is determined by reference to federal law. All other figures are hypothetical.

B. Example 1: T is a New Mexico decedent. T's gross estate is \$1,750,000; T has \$140,000 in deductions. Thus the taxable estate is \$1,610,000. \$175,000 of T's estate is real property located in state X, where it is taxed. State X does not have a reciprocal provision allowing this amount to be taxed in New Mexico.

(1) Under Section 7-7-3(B)(1) NMSA 1978 ("method 1"), it is determined that the amount of estate tax paid to state X on \$175,000 is \$2,040. This is the amount of credit for method one. (State X's statute does not tax to the full measure of its proportional share of the federal credit.)

(2) Under Section 7-7-3(B)(2) NMSA 1978 ("method 2"), the calculation is: Total credit for T's taxable estate times the quotient of the value of the property in state X divided by the value of the gross estate; that is,

$$\begin{array}{r} \$71,520 \times 175,000 = \$7,152 \\ 1,750,000 \end{array}$$

(3) The credit allowed in this situation against New Mexico tax due is equal to the smaller of the above two amounts, calculated under methods 1 and 2. The credit against the \$71,520 owed to New Mexico would, therefore, be \$2,040.

C. Example 2: Same facts as in Example 1, except \$1,400,000 of T's gross estate is real property located in and taxed by state X. Method 1 results in \$61,840 credit. Method 2 results in \$57,216 credit (\$71,520 x 8/10). The amount credited against New Mexico tax due is \$57,216, because the amount in this case is less using

method 2.

[8/5/74, 9/15/88, 7/15/96; 3.8.3.8 NMAC - Rn & A, 3 NMAC 8.3.8, 12/14/00]

HISTORY OF 3.8.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: BOR 70-1, (Inheritance Tax Reg. 2-1), Accrual of Interest During Probate Court's Extension of Time for Payment of Inheritance Tax, filed 3/5/70.

BOR 71-6, Regulation for Inheritance Tax Act, filed 12/20/71.

BOR 73-2, Regulations in Effect and Pertaining to the New Mexico Inheritance Tax Act, filed 4/4/73.

BOR 74-3, Regulations in Effect and Pertaining to the New Mexico Estate Act, filed 8/5/74.

TRD Rule 7-88, Regulations Pertaining to the New Mexico Estate Tax Act, Sections 7-7-1 to 7-7-20 NMSA 1978, filed 9/15/88.

History of Repealed Material: [RESERVED]

NMAC History:

3 NMAC 8.3, Credit for Tax Paid to Other State, filed 7/2/96.

3.8.3 NMAC, Credit for Tax Paid to Other State, filed 12/1/00.