

Vermont Estate Tax - The Peculiar Law

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Our legislators recently reduced the uppermost Vermont estate tax rate from 45% to 35% without fanfare.¹ The challenging legislative session spawned many important headlines, and this would not be one of them. Certainly, the impact may be considered modest. That said, the change in the statute modified a peculiar law that behaves in peculiar ways, and the impact may not be readily apparent.

Vermont partially “de-coupled” from a piggyback approach to the federal estate tax. Vermont now exempts estates valued under \$2,750,000. By comparison:

Connecticut	\$3,500,000
Maine	\$1,000,000
Massachusetts	\$1,000,000
New Hampshire	No tax
New York	\$1,000,000
Vermont	\$2,750,000

Our law incorporates pieces of the federal law in a way that may confuse many of us. For example, here is the Vermont Estate Tax rate chart:

Estate equal to or more than:	Taxable estate less than:	Tax on amount in column 1:	Tax rate on amount over column 1 figure:
\$0.00	40,000	0	0.00%
\$40,000.00	90,000	0	0.80%
\$90,000.00	140,000	400	1.60%
\$140,000.00	240,000	1,200	2.40%
\$240,000.00	440,000	3,600	3.20%
\$440,000.00	640,000	10,000	4.00%
\$640,000.00	840,000	18,000	4.80%
\$840,000.00	1,040,000	27,600	5.60%
\$1,040,000.00	1,540,000	38,800	6.40%
\$1,540,000.00	2,040,000	70,800	7.20%
\$2,040,000.00	2,540,000	106,800	8.00%
\$2,540,000.00	3,040,000	146,800	8.80%
\$3,040,000.00	3,540,000	190,800	9.60%
\$3,540,000.00	4,040,000	238,800	10.40%
\$4,040,000.00	5,040,000	290,800	11.20%
\$5,040,000.00	6,040,000	402,800	12.00%
\$6,040,000.00	7,040,000	522,800	12.80%
\$7,040,000.00	8,040,000	650,800	13.60%
\$8,040,000.00	9,040,000	786,800	14.40%
\$9,040,000.00	10,040,000	930,800	15.20%
\$10,040,000.00	+	1,082,800	16.00%



And here are some examples of how the law operates. The examples are based on the 2012 laws, assuming all numbers remain the same upon the donor’s eventual death.

Donor A has an estate of \$3,000,000. Donor A gives \$10,000 to child A, which qualifies for the annual federal gift tax exclusion (\$13,000 indexed to inflation). The gift will save \$3,500. That’s a 35% tax rate saved.

Donor A decides to give another \$240,000 to child A, in an attempt to bring his or her estate under the state exemption. The donor will not avoid the Vermont estate tax, though. The tax would be \$84,000, a 35% rate on the amount over the exemption (because of the way calculations are made with reference to federal gift-tax rates and the federal gift and estate tax return).

Vermont does not have a gift tax, but the estate tax is computed with reference to federal gift and estate taxes, which do indeed encompass gifts. Consequently, gifts may or may not reduce the effective overall tax savings as a result of this peculiar law. In the above example, what would be the impact if the taxable estate were in excess of \$3 million? The tax rate, when blended with the federal rate, tends to decline using the same example of a \$240,000 gift:

Estate	Tax Savings	Effective Rate
\$3,000,000	0	35.00%
\$4,000,000	\$24,960	10.40%
\$5,000,000	\$26,880	11.20%
\$10,000,000	\$23,712	9.88%

The Tax Form shows a \$3,000,000 estate subject to an 8% to 8.8% upper-most rate when in fact it is 35% and the 10 million estate shows the 15% to 16% rate yet the effective rate is under 10%.

It’s a peculiar law.

1. Act 143, Section 21