



# KANSAS

# Estate Tax Booklet

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## **Kansas Estate Tax**

**For Deaths Occurring  
On or After May 22, 2003**

The State of Kansas imposes an estate tax on the estates of persons who died on or after May 22, 2003.

The estate tax is a tax on the value of the decedent's estate, and is equal to the federal credit for state death taxes computed on the basis of 1997 federal law.

Please contact the Department of Revenue for more information about these taxes.

For questions about the Kansas Estate Tax,  
contact:

Kansas Department of Revenue  
Customer Relations – Estate Tax  
915 SW Harrison St.  
Topeka, KS 66625-2222

Phone: (785) 368-8222

Fax: (785) 296-4993

Hearing Impaired TTY: (785) 296-6461

To obtain forms, publications and other  
information, please visit our web site:

[www.ksrevenue.org](http://www.ksrevenue.org)

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If there is a conflict between the law and the information found in this publication, the law remains the final authority. Under no circumstances should the contents of this publication be used to set or sustain a technical legal position. A library of current policy information is also available on our Web site: [www.ksrevenue.org](http://www.ksrevenue.org)

## APPLICATION OF THIS BOOKLET

The forms and instructions in this booklet apply to the estates of decedents dying **on or after May 22, 2003**. For information about estates of decedent's dying prior to May 22, 2003, see the Prior Laws section, below.

## PRIOR LAWS

Estates of persons who died on or after June 6, 2002 were subject to a succession tax before that tax was retroactively repealed effective May 22, 2003. Because the repeal of the tax was retroactive, no estate is required to file a return for this tax or to pay the succession tax.

If the decedent died on or after June 6, 2002 and prior to May 22, 2003 and the value of the gross estate is in excess of \$700,000 the estate is subject to estate tax. Estates of decedents dying during this period should file form K-707.

If the decedent died on or after January 1, 2002 and prior to June 6, 2002, and the value of the gross estate is in excess of \$700,000 the estate is subject to estate tax.

Estates of decedents dying during this period should file form K-706 (Rev. 7/00).

If the decedent died on or after July 1, 1998 and prior to January 1, 2002 and the estate is filing a federal Form 706 with the Internal Revenue Service the estate is subject to the Kansas Estate Tax. Estates of decedents dying during this period should file Form K-706 (Rev. 7/00).

Estates of persons who died before July 1, 1998 are subject to an inheritance tax. Estates that are subject to tax are still required to file a return, and the statute of limitations does not begin to run until a return has been filed. Estates of decedents dying prior to July 1, 1998 should file an inheritance tax return on Form IH-80, IH-90 or IH-100.

Please contact the Department of Revenue for more information about these taxes, forms and instructions.

## KANSAS ESTATE TAX

### Generally

**The Kansas estate tax is based on federal law. By**

**statute, Kansas has incorporated by reference federal law as it existed on December 31, 1997.**

Federal law as it existed on December 31, 1997 provides that when estate taxes are paid to a state, a credit for all or a portion of that tax is allowed against the federal tax shown on the United States Estate (and Generation Skipping Transfer) Tax Return, federal Form 706. The Kansas estate tax is equal to 100% of the maximum federal credit allowable for state death taxes paid. In effect, the Kansas estate tax return picks up the maximum allowable credit amount. This is why the Kansas estate tax is referred to as a “pick-up tax”.

**Note: The changes in federal estate tax law that became effective for estates of decedents dying on or after January 1, 2002 do not affect the Kansas estate tax.**

### Recent Changes In Federal Estate Tax Law

A major feature of the federal tax package adopted in June of 2001 is the phasing down and eventual elimination of the federal estate tax. Under this law, the federal estate tax will be gradually reduced over the next decade until it is eliminated in calendar year 2010.

The 2001 changes in federal law fall into two primary categories. First, the accelerated increase in the Internal Revenue Code §2010 applicable exclusion amount will have the effect of increasing the federal filing threshold to \$1,000,000 effective January 1, 2002. In accordance with federal law this amount will increase to \$1,500,000 in 2004, \$2,000,000 in 2006, and \$3,500,000 in 2007.

Second, under the new federal law the federal credit for state death taxes found in Internal Revenue Code §2011 is phased out. In accordance with federal law, for deaths occurring in 2002 the amount of the credit is decreased by 25%, for deaths occurring in 2003 by 50%, and for deaths occurring in 2004 by 75%. For deaths occurring in 2005 the credit is eliminated and replaced with a deduction.

### Recent Changes In Federal Estate Tax Law Do Not Affect The Kansas Estate Tax

Many believe the Kansas estate tax is in total conformity with federal law, and that the recent federal law changes will automatically flow through to Kansas. This is not the case. By statute, Kansas has incorporated by reference federal law as it existed on December 31, 1997. Therefore,

under current law, the Kansas estate tax will not be affected by the recent changes to federal law.

The 1997 federal law Kansas has incorporated by reference does not recognize the accelerated filing thresholds found in current federal law. Instead, the state filing threshold is \$700,000 for deaths occurring in 2002 and 2003, \$850,000 for deaths occurring in 2004, \$950,000 for deaths occurring in 2005, and \$1,000,000 for deaths occurring in 2006 or thereafter.

Similarly, the 1997 federal law Kansas has incorporated by reference does not include a provision that provides for a phase-out of the credit for state death taxes. Instead, 100% of the amount of the credit is to be paid.

### Proration of Kansas Estate Tax

Kansas law provides that when the estate of a resident decedent shall consist of property within and property without the state, or in the case of the estate of a nonresident decedent who died holding an interest in property with a Kansas tax situs, the tax must be prorated. The Kansas estate tax is the same percentage of the federal credit for state death taxes that the total value of the decedent’s Kansas property is of the total value of their federal gross estate.

For a resident decedent, property taxable by Kansas includes real property and tangible personal property located in Kansas and intangible personal property wherever located.

For a nonresident decedent, property taxable by Kansas includes real property and tangible personal property located in Kansas.

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### FILING REQUIREMENTS

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#### Filing Thresholds

Estates of decedents dying on or after May 22, 2003 must file an estate tax return if the value of the estate exceeds the filing threshold found in the 1997 federal law Kansas has incorporated by reference. Those thresholds are exceeded if:

- The decedent’s death occurred during 2003 and the value of the gross estate is \$700,000 or more;

- The decedent’s death occurred in 2004 and the value of the gross estate is \$850,000 or more;
- The decedent’s death occurred in 2005 and the value of the gross estate is \$950,000 or more; or
- The decedent’s death occurred in 2006 or after and the value of the gross estate is \$1,000,000 or more.

### Non-Taxable Estates

If the estate of a decedent dying on or after May 22, 2003 does not exceed the filing threshold found in the 1997 federal law Kansas has incorporated by reference, the estate is not subject to estate tax. Therefore, the estate **does not** need to file an estate tax return.

### Who Must File The Return

The personal representative of the estate must file the return. For purposes of the Kansas estate tax the term “personal representative” means the executor, administrator or deemed executor of the decedent. A “deemed executor” is any person in actual or constructive possession of any property of the decedent. A deemed executor must act if no executor or administrator is appointed, qualified and acting within the United States.

### Which Form to File

For the estates of decedents dying on or after May 22, 2003 use Kansas Form K-706 (Rev. 10/04) which is contained in this booklet. For deaths occurring prior to May 22, 2003, see the Prior Laws section of this booklet.

### Federal Form 706 (Rev. April 1997) Required

**All estates of decedents dying on or after May 22, 2003 must complete the April 1997 version of federal Form 706 and file it with the Kansas Form K-706 (Revised 10/04). The April 1997 version of federal Form 706 that must be completed and filed with the estate’s Form K-706 (Revised 10/03) is in addition to any current federal Form 706 that is filed with the Internal Revenue Service.**

When completing the April 1997 version of the federal Form 706 the estate may make any elections that are available under federal law as it existed on December 31, 1997. These elections may be made regardless of whether a federal Form 706 is actually filed with the Internal Revenue Service. These elections are also independent of any

election made on a federal Form 706 that is actually filed with the Internal Revenue Service.

On the April 1997 version of the federal Form 706 the estate should use the applicable Internal Revenue Code §2010 exclusion amount allowed for the year of death under federal law as it existed on December 31, 1997. These amounts, which are referred to on page 1, line 11, of the federal return as the “maximum unified credit against estate tax” are shown in the following table:

| Unified Credit |                |                             |
|----------------|----------------|-----------------------------|
| Year           | Unified Credit | Applicable Exclusion Amount |
| 2002           | 229,800        | 700,000                     |
| 2003           | 229,800        | 700,000                     |
| 2004           | 287,300        | 850,000                     |
| 2005           | 326,300        | 950,000                     |
| 2006 and after | 345,800        | 1,000,000                   |

The amount of the federal credit for state death taxes determined on the April 1997 version of federal Form 706 should not be reduced by any percentage. Instead, 100% of the amount of the credit should be used in determining the amount of Kansas tax due.

### Supporting Materials Required

All materials that are required by the 1997 federal law Kansas has incorporated by reference to be filed in support of the federal Form 706, must be completed and must accompany the April 1997 version of federal Form 706 that is filed with the Kansas return. Any other material that is necessary to explain or support the federal Form 706 must also accompany the April 1997 version of federal Form 706 that is filed with the Kansas return.

If the estate filed a federal Form 706 with the Internal Revenue Service, a copy of that federal return, together with a copy of all materials filed in support of the federal Form 706, must also accompany the Kansas return.

### When to File

The Kansas Estate Tax Return Form K-706 (Rev. 10/04) must be filed within nine months of the date of the decedent’s death unless an extension of time to file has been granted.

A return is deemed filed upon delivery to the Kansas Department of Revenue. When mailed, a return is deemed filed as of the postmark date.

### **Extensions of Time to File**

An extension of time to file may be granted upon a showing of good cause. No extension will be for more than 6 months, except in the event of litigation directly involving the estate.

A request for an extension of time must be made in writing, and must provide the grounds for the extension. Check the box for an extension on the return.

Extensions of time to file a federal estate tax return that have been granted by the Internal Revenue Service will be accepted for Kansas Estate Tax purposes. Attach a copy of the federal extension(s) to your Kansas return and check the box for an extension.

An extension of time to file is not an extension of time to pay.

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## **PAYMENT OF TAX**

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### **Where to Pay**

All payments should be made by check payable to “Kansas Estate Tax”. Include the name of the estate on the check.

Returns and payments should be mailed to:

Kansas Department of Revenue  
Customer Relations – Estate Tax  
915 SW Harrison  
Topeka, Kansas 66625-2222

### **Who Must Pay**

The personal representative of the estate must pay the tax. The personal representative is personally liable for the tax to the extent of property in their actual or constructive possession, less any amounts they are required to pay to third parties who have a legally enforceable claim to the property that has priority over the tax claim.

### **When to Pay**

Tax is due nine months following the decedent’s date of

death. If not paid when due, penalty and interest may be due.

### **Penalty and Interest**

If the tax is not paid by the due date, penalty is imposed at the rate of 1% of the unpaid balance of the tax due for each month or fraction of a month that the return is not filed or tax paid, up to a maximum of 24%. In addition, interest will be charged on the unpaid tax from the due date until the time it is paid. The rate of interest is that prescribed by subsection (a) of K.S.A. 79-2968. For a specific rate, please contact the Estate Tax Section or see our web site at: [www.ksrevenue.org](http://www.ksrevenue.org)

### **Refunds**

No refund will be made for an amount of \$25 or less.

No refund or credit will be allowed after three (3) years from the date the return was filed or one (1) year after an assessment is made, whichever is the later date, unless a claim is filed by the personal representative before those periods expire.

Interest will be paid on the amount of the refund at the statutory rate from the date of payment to the date the refund is allowed.

### **Enforcement**

Generally, all of the property a decedent owned at the time of death, regardless of the form of investment, is subject to a lien for all tax, penalty and interest. Written notice of the lien may be filed against the property if it appears the estate is trying to evade the tax.

The lien is automatically released upon the payment of all tax, penalty and interest. It is also automatically released when the property is sold to pay charges against the estate and expenses of administration that have been allowed by a court. When property is otherwise sold, the lien is transferred from property sold to the proceeds of the sale.

If property must be sold, transferred or disposed of for the payment of taxes against the estate the property is divested of the lien, but only to the extent the Director of Taxation has granted a specific release.

If necessary, liability for tax, penalty and interest may be enforced by issuance of a tax warrant.

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## GENERAL INFORMATION

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### Closing Letter

Upon being satisfied that there has been a final determination of all taxes due and that payment has been received, the Director of Taxation will issue a closing letter to the personal representative. A copy of the closing letter will also be issued to the preparer of the return.

### IRS Adjustments

Any adjustment by the Internal Revenue Service must be reported by the personal representative to the Director of Taxation within ninety (90) days of the date of such adjustment. An amended Kansas estate tax return must be filed to report any changes. Failure to comply will cause the statute of limitations to be tolled.

### Additional Forms

To obtain additional Estate Tax forms or for other state tax assistance contact the office shown below. Forms can also be downloaded from the Department of Revenue's web page: <http://www.ksrevenue.org>

**Topeka Assistance Center  
Docking State Office Building  
915 SW Harrison St., 1st Floor  
Topeka, KS 66625-1712  
Phone: (785) 368-8222  
Fax: (785) 296-4993  
Hearing Impaired TTY: 1-785-296-6461**



## LINE INSTRUCTIONS FOR FORM K-706 (Rev. 10/04)

### Federal Credit For State Death Taxes

**Line 1** – Enter the amount of the credit for state death taxes reported on the April 1997 version of federal Form 706.

**All estates of decedents dying on or after May 22, 2003 must complete the April 1997 version of federal Form 706 and file it with the Kansas Form K-706 (Revised 10/04). The April 1997 version of federal Form 706 that must be completed and filed with the estate's Form K-706 (Revised 10/04) is in addition to any current federal Form 706 that is filed with the Internal Revenue Service.**

### Proration Of Federal Credit For State Death Taxes

Kansas law provides that when the estate of a resident decedent consists of property within and without the state, or in the case of the estate of a nonresident decedent who died holding an interest in property with a Kansas tax situs, the federal credit for state death taxes must be prorated.

**Resident Decedent.** For a resident decedent, property taxable by Kansas includes real property and tangible personal property located in Kansas and intangible personal property wherever located.

**Nonresident decedent.** For a nonresident decedent, property taxable by Kansas includes real property and tangible personal property located in Kansas.

**Line 2.** Enter the gross value of the decedent's estate as reported on line 1 of the April 1997 version of federal Form 706.

**Line 3.** Enter the gross value of the decedent's non-Kansas property as reported on the April 1997 version of federal

Form 706. Please identify these assets on the attached copy of the federal return by highlighting them in some manner or by attaching a separate schedule of these assets.

**Line 4.** Subtract line 3 from line 2.

**Line 5.** Divide line 4 by line 2. Enter the result as a percentage. If the decedent was a resident decedent whose estate consists entirely of Kansas property, the result is 100 percent.

### Kansas Estate Tax

**Line 6.** Multiply line 1 by line 5. This is the Kansas estate tax.

**Line 7.** If the tax is not paid by the due date, interest will be charged on the unpaid tax from the due date until the time it is paid. The rate of interest is that prescribed by subsection (a) of K.S.A. 79-2968. For a specific rate, please contact the Estate Tax Section.

**Line 8.** If the tax is not paid by the due date, penalty is imposed at the rate of 1% of the unpaid balance of the tax due for each month or fraction of a month that the return is not filed or tax paid, up to a maximum of 24%.

**Line 9.** Add lines 6, 7 and 8. This is the total amount due to the State of Kansas. Please make your check or money order payable to "Kansas Estate Tax".

For questions about the Kansas Estate Tax, contact:

**Kansas Department of Revenue  
Customer Relations - Estate Tax  
915 SW Harrison St.  
Topeka, KS 66625-2222**

**Phone:** (785) 368-8222

**Fax:** (785) 296-4993

**Hearing Impaired TTY:** (785) 296-6461



State of Kansas  
Department of Revenue  
Docking State Office Building, 915 SW Harrison St.  
Topeka, KS 66612-1588

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# TAXPAYER ASSISTANCE

**For questions about the Kansas Estate Tax or Inheritance Tax contact:**

**Kansas Department of Revenue  
Customer Relations - Estate Tax  
Docking State Office Building  
915 SW Harrison Street  
Topeka, KS 66625-2222**

**Phone: (785) 368-8222  
Fax: (785) 296-4993**

**<http://www.ksrevenue.org>**

**TTY Users  
Telecommunications Device  
for the Deaf  
785-296-6461**

