

STATE OF HAWAII - DEPARTMENT OF TAXATION  
**INSTRUCTIONS FOR FORM M-6**  
**HAWAII ESTATE TAX REPORT**

## Change to Note

Act 74, Session Laws of Hawaii 2010, amended Hawaii's Estate and Transfer Tax effective for individuals dying on or after May 1, 2010. The taxable estate is determined under federal estate law as it read at December 31, 2009. Estates of residents and nonresident citizens are not allowed the deduction for state death taxes. The federal Estate Tax Return (Form 706 or Form 706-NA (both revised September, 2009)) and their related instructions should be used to determine the taxable estate.

## General Instructions

**Purpose of Form** — Hawaii has neither an inheritance nor a gift tax. The Hawaii estate and transfer tax is based on the Federal State Death Tax Credit (FSDTC) as it existed on December 31, 2000. For persons dying on or after May 1, 2010, this tax is imposed on the transfer of the taxable estate of every resident and the taxable estate located in Hawaii of every nonresident.

An estate of a resident or a nonresident citizen is not taxable and no estate tax report is required if the taxable estate (federal Form 706, line 3a) is \$3,500,000 or less unless a QTIP election is being made.

The estate of a nonresident-noncitizen is not taxable and no report is required if the taxable estate (federal Form 706-NA, Part II, line 1) is \$60,000 or less.

However, the personal representative or person(s) in possession, control, or custody of the property **must** file a Request for Release (Form M-6A) with the State Department of Taxation if they wish to obtain a release, which indicates that the personal representative or person(s) in possession, control, or custody are free from taxes under chapter 236D, Hawaii Revised Statutes.

Generation-skipping transfers due to taxable distributions or taxable terminations made after June 30, 1994 and before January 1, 2005 or on or after May 1, 2010, are reported using the Hawaii Generation-Skipping Transfer Tax Report, Form M-6GS.

**Who Should File** — The Form M-6 must be filed by the personal representative, executor, or administrator of the decedent's estate in the United States or any person in control, custody, or possession of the decedent's property.

**Time to File, Extension** — This report is due within 9 months after the date of the decedent's death, including any extension of time to file. An automatic six-month extension to file the report may be requested by filing **Form M-68, Application for Automatic Extension of Time to File Hawaii Estate Tax Report (Form M-6)**, on or before the due date of the report.

An extension of time to file is not an extension of time to pay the tax. Any request for an extension of time to file the Hawaii Estate and Transfer Tax Report must be accompanied by payment of the tax. Interest will be owed on any additional amount of tax over the amount paid with the extension to file.

**Where to File** — The completed report may be mailed to:

Hawaii Department of Taxation  
P. O. Box 259  
Honolulu, Hawaii 96809-0259

**Payment of Tax** — Due date of payment is the same as time for filing (see **Time to File, Extension** above). However, any tax due but not paid by the due date will incur interest from the due date, regardless of any extension of time to file the report. Pay the amount shown on line 18 of this report. Attach a check or money order payable to "Hawaii State Tax Collector" to the report. Please write the decedent's name, social security number and "Form M-6" on the check. Pay in U.S. dollars drawn on any U. S. bank. Do not send cash.

**Estimated Tax Payment** — Persons who will be filing Form M-6 after the filing deadline (9 months after the date of the decedent's death) because they have requested an automatic extension of time to file may make an estimated tax payment prior to filing Form M-6 by submitting a cover letter,

Form VP-2, and payment for the estimated tax due. Include this amount on line 17.

**Required Attachments** — The following items must be submitted with the estate's Form M-6:

- Federal Form 706 (Revised 9/2009) completed through line 12, or
- Federal Form 706-NA (Revised 9/2009) completed through line 8.
- Federal schedules with federal Forms 712, as required.
- Death certificate,
- Will,
- Trusts,
- Power of appointment documents,
- A copy of another state's estate tax return or foreign estate tax return, if the estate is subject to other estate taxes,
- Any valuations or appraisals

## Specific Instructions

### Tentative Tax Computation Schedule

Complete the Tentative Tax Computation Schedule on page 2 of Form M-6 before completing page 1 of the form.

**Complete 2009 federal Form 706 or Form 706-NA** — The 2009 Federal Estate Tax Return (Form 706 or Form 706-NA - Rev. September 2009) must be filed with this report for decedent's dying after April 30, 2010. These forms should be completed using federal Estate Tax Law as it read on December 31, 2009 to arrive at the taxable Hawaii estate. Form 706 (used by estates of Hawaii residents and nonresidents) should be completed through line 12 except that line 3b should be zero. Federal Form 706-NA (used by estates of nonresidents of Hawaii who are not United States citizens) should be completed through line 8. Include any schedules and Federal Forms 712 as required. Identify any Hawaii property.

The transfer of a nonresident-noncitizen's property is exempt from Hawaii's Estate and Transfer Tax to the extent that the property of residents is exempt from taxation under the laws of the state in which the nonresident-noncitizen is domiciled; except that the following shall be subject to Hawaii's tax:

1. Real property located in Hawaii, whether or not held in a trust the corpus of which is included in a decedent's gross estate for federal estate tax purposes;
2. A beneficial interest in a land trust that owns real property located in Hawaii; and
3. Tangible and intangible personal property having a situs in Hawaii, including:
  - a. Shares of stock owned by a nonresident-noncitizen if issued by a domestic corporation.
  - b. Any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of Internal Revenue Code sections 2035 to 2038, inclusive, shall be deemed situated in Hawaii if so situated either at the time of the transfer or at the time of the decedent's death; and
  - c. Debt obligations of a Hawaii person or the state of Hawaii, or any political subdivision thereof, owned and held by a nonresident-noncitizen shall be deemed property within Hawaii.

**Line 1.** - Enter the amount from 2009 federal Form 706, line 3a, or from 2009 federal Form 706-NA, Part II, line 1. This is the tentative taxable estate.

**Line 6** - Compute the State Death Tax Credit for the amount on line 5 using the chart of State Death Tax Credit Rates that is printed on Form M-6, page 2.

**Line 8.** - Also enter this amount on line 1 or line 9 on page 1 of Form M-6.

## Computation of Tax (Form M-6, page 1):

- A. Resident Decedent:
- (1) with all assets within Hawaii is subject to the Hawaii Estate and Transfer Tax equal to the FSDTC.
  - (2) where real property or tangible personal property has situs in another State, then the credit is reduced (if any) by the lesser of the FSDTC paid to that State or the gross value of the property in the other State over the federal gross estate multiplied by the FSDTC.
- B. Nonresident (including nonresident-noncitizen): where real property or tangible personal property has situs in Hawaii, then the tax is the gross value of the property within Hawaii over the federal gross estate multiplied by the FSDTC.

**Changes to Hawaii Estate Tax Report** — If changes need to be made to the Hawaii Estate Tax Report, an amended report must be filed. Complete Form M-6, write "AMENDED" at the top of the report, and attach a statement of the changes and corrections made. You may use Schedule AMD for this statement. Attach any federal Form 706 schedules affected by the corrections or changes.

### Penalty and Interest —

- (a) *Penalty* for failure to file is equal to 5% of the tax due for each month or part of a month that the report is delinquent, up to a maximum of 25% of the tax payable.
  - (b) *Penalty* for failure to pay after filing timely report is 20% of the tax unpaid within 60 days of the prescribed due date. The 60-day period is calculated beginning with the prescribed
- due date even if the prescribed due date falls on a Saturday, Sunday, or legal holiday.
- (c) *Interest* is computed on underpayment or nonpayment of tax at a rate of 2/3 of 1% a month or part of a month which begins to run 9 months after the date of death of the decedent, *regardless* of any extension to file the report or pay the tax.

**Where to Get More Information** — More information is available on the Department's website at [www.hawaii.gov/tax](http://www.hawaii.gov/tax) or you may contact the customer service representative at:

Voice: 808-587-4242  
1-800-222-3229 (Toll-Free)

Telephone for the Hearing Impaired:  
808-587-1418  
1-800-887-8974 (Toll-Free)

Fax: 808-587-1488

E-mail: [Taxpayer.Services@hawaii.gov](mailto:Taxpayer.Services@hawaii.gov)

Mail: Taxpayer Services Branch  
P.O. Box 259  
Honolulu, HI 96809-0259