

IMPORTANT NOTICE FROM THE DEPARTMENT OF REVENUE REGARDING
NORTH CAROLINA ESTATE TAX

The recent session of the 2007 General Assembly enacted House Bill 2436 which modifies the formula for calculating the North Carolina estate tax when the decedent was a North Carolina resident at the time of death and the estate had property in more than one state.

For estates with property only in North Carolina, the North Carolina estate tax is the amount of the credit for state estate tax that, as of December 31, 2001, would have been allowed for federal estate tax purposes. If an estate has property in more than one state, the federal credit amount must be prorated between North Carolina and the other states in which the estate has property. Prior to the enactment of House Bill 2436, the amount of the 2001 credit was reduced by the lesser of the amount of the estate tax paid to the other state or the amount of the 2001 credit multiplied by a fraction, the numerator of which was the value of the property located out of state and the denominator of which was the value of the gross estate.

A complaint was filed in Superior Court of Mecklenburg County on December 28, 2007, captioned *Stowe v. Department of Revenue*, alleging that this formula was unconstitutional because it provided less than a full reduction of the tax attributable to the out-of-state property when the other state does not impose an estate tax or imposes an estate tax less than the prorated federal credit amount.

Under the new law, the “lesser of” language is removed and the amount of the North Carolina estate tax imposed is reduced solely by the ratio. The law became effective July 16, 2008, and applies retroactively to the estates of decedents for which the statute of limitations for claiming a refund had not expired as of December 28, 2007.

Estates affected retroactively by this change may file an amended estate tax return using Form NC-19, Claim for Refund of Taxes. “Estate Tax Law Change” should be written on the front of the return in the upper right-hand corner. Amended returns should be sent to the following address:

NC Department of Revenue
Attention: Estate Tax Refund, Workstation # 4546
PO Box 871
Raleigh, NC 27602-0871

Questions may be directed to the Personal Taxes Division at (919) 733-3565.

August 5, 2008