

## Preemption of Federal Tax Recovery Provisions

By: Trent S. Kiziah

Code Section	Federal Law Preempts State Law as to <b>Federal Estate Taxes</b>	Federal Law Does <b>Not</b> Preempt State Law as to <b>Federal Estate Taxes</b>	Federal Law Preempts State Law as to <b>State Estate Taxes</b>	Federal Law Does <b>Not</b> Preempt State Law as to <b>State Estate Taxes</b>
<b>2206</b>	<b>Fagan</b> , T.C. Memo 1999-46 (1999); <b>E/O Cohen</b> , 954 S.W.2d 409 (Mo. App. 1997); <b>Tovrea v. Nolan</b> , <b>845 P.2d 494 (Ariz. App. 1992)</b> ; <b>McAleer</b> , 804 F.2d 1231 (8th Cir. 1986); <b>First Nat'I Bank of Shelby</b> , 248 S.E.2d 416 (N.C. App. 1978); <b>E/O Ogburn</b> , 406 P.2d 655 (Wyo. 1965); <b>Priedeman</b> , 202 S.W.2d 900 (Mo. 1947)		<b>Tovrea v. Nolan</b> , 845 P.2d 494 (Ariz. App. 1992)	
<b>2207</b>	<b>King</b> , 22 N.Y.2d 456 (NY App. 1968); arguably <b>Coe Marital</b> , 593 N.W.2d 190 (Mich. App. 1999) - Court notes federal preemption abounds but looks to Michigan case law to define "direction otherwise" language in 2207	<b>Gellerstedt</b> , 865 S.W.2d 707 (Mo. App. 1993); arguably <b>Coe Marital</b> , 593 N.W.2d 190 (Mich. App. 1999) - Court notes federal preemption "abounds" but looks to Michigan case law to define "direction otherwise" language in 2207		
<b>2207A</b>	<b>Blauhorn</b> , 746 N.W.2d 136 (Neb. 2008); <b>Eisenbach</b> , 166 P.3d 858 (Wash. App. 2007); <b>Will of Cooney</b> , 541 N.W.2d 467 (Wisc. 1995)-court looks to state law to define "otherwise direction" in 2207A; <b>Jones Trust</b> , 637 N.E. 2d 1301 (Ind. App. 1994) -notes 2207A controls - looks to Florida law to define "direct otherwise"; possibly <b>E/O Kramer</b> , 610 N.Y.S.2d 31 (N.Y. App. 1994) - notes 2207A but solely analyzes EPTL 2-1.8(d-1); <b>Will of Lee</b> , 910 A.2d 634 (N.J. App. 2006); <b>E/O Stark</b> , 2011 WL 3687421 (N.J. App. 2011)(unpublished)	<b>E/O Vahlteich</b> , 69 F.3d 537 (6th Cir. 1995)(unpublished opinion) holds state law controls. In following cases, court notes 2207A controls but looks to state law to define "direct otherwise": <b>Will of Cooney</b> , 541 N.W.2d 467 (Wisc. 1995); <b>Jones Trust</b> , 637 N.E. 2d 1301 (Ind. App. 1994); and <b>E/O Kramer</b> , 610 N.Y.S.2d 31 (N.Y. App. 1994)	<b>E/O Klarner</b> , 113 P.3d 150 (Colo. 2005)	<b>Will of Lee</b> , 910 A.2d 634 (N.J. App. 2006); <b>Forrester</b> , 914 So.2d 855 (Ala. 2005); <b>Will of Adair</b> , 695 A.2d 250 (N.J. 1997); <b>Will of Cooney</b> , 541 N.W.2d 467 (Wisc. 1995); <b>Cleveland</b> , 652 So.2d 1134 (Ala. 1994); <b>E/O Stark</b> , 2011 WL 3687421 (N.J. App. 2011)(unpublished)
<b>2207B</b>				
<b>2603(b)</b>	<b>Matter of Jobson</b> , 699 N.Y.S.2d 460 (N.Y. App. 1999); <b>E/O Tubbs</b> , 900 P.2d 865 (Kan. App. 1995); <b>E/O Monroe</b> , 104 T.C. 352 (1995); <b>E/O Denman</b> , 270 S.W.3d 639 (Tex. App. 2008) - applies federal law; <b>E/O Green</b> , T.C. Memo 2003-348 (2003) - applies federal law			