

Common Traps of the Pennsylvania Transfer Inheritance Tax

Common Tax Issues

1. The PA Transfer Inheritance Tax (the “Tax”) is imposed on assets that you own at your death. There are few, if any, exclusions from the Tax as under the federal estate tax law (the “Estate Tax”).

Example: There is no unified type credit.

 The rate is not graduated, but rather flat and they attach to the first dollar of taxable assets.

Common Tax Issues

2. The tax rates are very high by state law standards. The rate is determined solely by who receives the asset.

- A. Spouses – taxed at 0%
- B. Lineal Descendants – 4 ½ %
- C. Siblings – 12%
- D. All others – 15%

Common Tax Issues

3. Gifts to trusts will be taxed at the highest rate if all of the beneficiaries are not of the lower tax class specified. This is a big trap for the unwary. Beware of gifts to trusts. Make sure that all intended beneficiaries, even in remote residuary clauses, are family members in the lowest tax classes.

Common Tax Issues

4. There is no longer any state death tax credit for decedents' dying after 12/31/2004. Now you are only entitled to a deduction for state death taxes paid. As almost all of our clients' estates are designed to pay little or no estate tax this deduction will be useless.

Common Tax Issues

5. There is a strict one year look back period for gifts made prior to death for the imposition of the Tax. There is a \$3,000.00 exemption per year. The Federal Tax uses a modified version of a three year look back rule.

Common Tax Issues

6. Discount period for the prepayment of the Tax. An estate is entitled to a discount of 5% of the Tax if it is paid within three months of the date of the decedent's death. It is almost considered malpractice not to take advantage of this discount unless your client is earning over 11% per annum on their investments. Always remind the other professional advisor of this deadline and begin, almost immediately, to pull funds together to pay this discount.

Common Tax Issues

6. Continued. Always begin to gather these funds as soon as is practical given the situation. Oftentimes people wait until the last moment and then find out that this or that can't be transferred without a real hassle or that they don't have a signature power over this or that account. It creates a lot of unneeded stress. Do this early. Have the funds calculated and ready to transfer a week before they are due.

Common Tax Issues

7. The use of a credit shelter trust in a will or revocable living trust, that names individuals other than the spouse as a beneficiary, will result in the immediate taxation of at least some of the amount left in the credit shelter (family) trust. You must file a compromise form to determine the nontaxable amount.

Common Tax Issues

8. There is no alternate valuation date in the Tax. Thus the values of the date of death will be the values for tax purposes.

Common Tax Issues

9. Proceeds of life insurance are not subject to the Tax. This is true even if the amounts are paid to a revocable trust. This is one way to discuss the use of life insurance for clients. This may be especially true if the clients are thinking of giving property to those who will be in the 12% or 15% tax bracket.

Common Tax Issues

10. Only a portion of jointly owned property is included in the Tax for the decedent. That is the amount attributable to the percentage owned by the decedent.

Common Tax Issues

11. You can safely use the Allegheny County assessment valuations to determine the value of real estate for reporting the Tax. If you think it is substantially in excess of that amount, then don't sell it before you file the return and get the approval of the PA Department of Revenue.



Thanks for Attending!



Please fill out the evaluation forms.