

IC 6-4.1-5

Chapter 5. Determination of Inheritance Tax

IC 6-4.1-5-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.8. Amended by P.L.205-2013, SEC.104.

IC 6-4.1-5-1

Tax rates; transfers to Classes A, B, and C transferees

Sec. 1. (a) For purposes of this section, the net taxable value of property interests transferred by a decedent to a particular transferee equals the remainder of:

- (1) the total fair market value of the property interests transferred by the decedent to the transferee under a taxable transfer or transfers; minus
- (2) the total amount of exemptions and deductions provided under sections 9.1 through 15 of IC 6-4.1-3 with respect to the property interests so transferred.

(b) The inheritance tax imposed on a decedent's transfer of property interests to a particular Class A transferee is prescribed in the following table:

| NET TAXABLE VALUE OF PROPERTY INTERESTS TRANSFERRED | INHERITANCE TAX |
|---|--|
| \$25,000 or less | 1% of net taxable value |
| over \$25,000 but not over \$50,000 | \$250, plus 2% of net taxable value over \$25,000 |
| over \$50,000 but not over \$200,000 | \$750, plus 3% of net taxable value over \$50,000 |
| over \$200,000 but not over \$300,000 | \$5,250, plus 4% of net taxable value over \$200,000 |
| over \$300,000 but not over \$500,000 | \$9,250, plus 5% of net taxable value over \$300,000 |
| over \$500,000 but not over \$700,000 | \$19,250, plus 6% of net taxable value over \$500,000 |
| over \$700,000 but not over \$1,000,000 | \$31,250, plus 7% of net taxable value over \$700,000 |
| over \$1,000,000 but not | |

| | |
|------------------|--|
| over \$1,500,000 | \$52,250, plus 8% of net taxable value over \$1,000,000 |
| over \$1,500,000 | \$92,250, plus 10% of net taxable value over \$1,500,000 |

(c) The inheritance tax imposed on a decedent's transfer of property interests to a particular Class B transferee is prescribed in the following table:

| NET TAXABLE VALUE OF PROPERTY INTERESTS TRANSFERRED | INHERITANCE TAX |
|---|---|
| \$100,000 or less | 7% of net taxable value |
| over \$100,000 but not over \$500,000 | \$7,000, plus 10% of net taxable value over \$100,000 |
| over \$500,000 but not over \$1,000,000 | \$47,000, plus 12% of net taxable value over \$500,000 |
| over \$1,000,000 | \$107,000, plus 15% of net taxable value over \$1,000,000 |

(d) The inheritance tax imposed on a decedent's transfer of property interests to a particular Class C transferee is prescribed in the following table:

| NET TAXABLE VALUE OF PROPERTY INTERESTS TRANSFERRED | INHERITANCE TAX |
|---|---|
| \$100,000 or less | 10% of net taxable value |
| over \$100,000 but not over \$1,000,000 | \$10,000, plus 15% of net taxable value over \$100,000 |
| over \$1,000,000 | \$145,000, plus 20% of net taxable value over \$1,000,000 |

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.7; Acts 1979, P.L.75, SEC.10; Acts 1980, P.L.57, SEC.12; P.L.87-1983, SEC.5.

IC 6-4.1-5-1.1

Repealed

(As added by P.L.157-2012, SEC.9. Repealed by P.L.205-2013, SEC.105.)

IC 6-4.1-5-1.5

Fair market value; appraisal date

Sec. 1.5. (a) For purposes of determining the fair market value of each property interest transferred by a decedent, the appraisal date for the property interest is the date used to value the property interest for federal estate tax purposes. However, if no federal estate tax return is filed for the decedent's estate, the appraisal date for each property interest transferred by the decedent is the date of the decedent's death.

(b) The finally determined federal estate tax value of a property interest is presumed to be the fair market value of the property interest for Indiana inheritance tax purposes, unless the federal estate tax value is determined under Section 2032A of the Internal Revenue Code. However, the presumption is rebuttable. A property interest that is valued for federal estate tax purposes under Section 2032A of the Internal Revenue Code shall be valued for Indiana inheritance tax purposes at its fair market value on the appraisal date prescribed by subsection (a).

As added by Acts 1980, P.L.57, SEC.13.

IC 6-4.1-5-2

Referral of return to tax appraiser; duties

Sec. 2. Within ten (10) days after an inheritance tax return for a resident decedent is filed with the probate court, the court shall refer the return to the county inheritance tax appraiser. The county inheritance tax appraiser shall:

- (1) investigate the facts concerning taxable transfers made by the decedent before his death;
- (2) review the return for mistakes and omissions; and
- (3) appraise each property interest, transferred by the decedent under a taxable transfer, at its fair market value as of the appraisal date prescribed by IC 6-4.1-5-1.5.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.14.

IC 6-4.1-5-3

Notice of appraisal

Sec. 3. Before making the appraisal required under section 2(3) of this chapter, the county inheritance tax appraiser shall give notice of the date, time, and place of the appraisal, by mail, to any person designated by the probate court and each interested person who filed a request for notice and provided a mailing address to the county assessor. The county inheritance tax appraiser shall appraise the property interests at the time and place stated in the notice.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.165-2002, SEC.1.

IC 6-4.1-5-4

Subpoena; witness fees

Sec. 4. In order to make the appraisal required under section 2(3) of this chapter, the county inheritance tax appraiser may:

- (1) issue subpoenas;
- (2) compel the appearance of witnesses before him; and
- (3) examine witnesses under oath.

Each witness examined with respect to the appraisal is entitled to receive a fee in the same amount paid to a witness subpoenaed to appear before a court of record. The county treasurer shall, from county funds not otherwise appropriated, pay the witness fee which

is provided for under this section and which is allowed by the probate court under section 10 of this chapter.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-5-5

Refiling return following appraisal; appraiser's review

Sec. 5. After an inheritance tax return filed for a resident decedent is examined by the county inheritance tax appraiser and the probate court, the court shall order the person responsible for filing the return to complete the return and refile it if the court finds that the return is incomplete. When the return is refiled, the court shall refer the refiled return to the county inheritance tax appraiser for review by him.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-5-6

Appraisal report; preparation; filing

Sec. 6. After completing the duties assigned to him under section 2 of this chapter, the county inheritance tax appraiser shall prepare an appraisal report. The appraisal report shall:

- (1) contain a list of the property interests described in section 2(3) of this chapter; and
- (2) indicate the fair market value of the property interests.

The county inheritance tax appraiser shall file one (1) copy of the report with the probate court, and he shall file another copy of the report with the department of state revenue. The appraiser shall attach the depositions of any witnesses examined with respect to the appraisal and any other information which the court may require to the appraisal report which he files with the court.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.15.

IC 6-4.1-5-7

Petition for order of no inheritance tax due

Sec. 7. If the personal representative of a resident decedent's estate or the trustee or transferee of property transferred by the decedent believes that no inheritance tax is imposed under this article as a result of the decedent's death, he may file a verified petition with the appropriate probate court requesting that the court enter an order stating that no inheritance tax is due. The petitioner must include in the petition a statement of the value of the property interests transferred by the decedent.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-5-8

Hearing upon petition for order of no inheritance tax due; rehearing

Sec. 8. If a petition is filed under section 7 of this chapter, the probate court may hold a hearing on the petition. If the court elects to hold a hearing, it shall give notice of the hearing in the same

manner prescribed for giving the notice required under section 9 of this chapter. After the probate court completes its examination of the petition, the court may enter an order stating that no inheritance tax is due as a result of the decedent's death. If the court enters such an order, the petitioner is not required to file an inheritance tax return. However, a person may petition the appropriate probate court under IC 6-4.1-7 for a rehearing on the court's order or for a reappraisal of the property interests transferred by the decedent.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-5-9

Hearing on tax appraiser's report; notice

Sec. 9. When the county inheritance tax appraiser files an appraisal report with the probate court, the court shall give twenty (20) days notice by mail of the date, time, and place of a hearing on the report to each interested person who filed a request for notice and provided a mailing address under section 3 of this chapter.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.165-2002, SEC.2.

IC 6-4.1-5-10

Orders of inheritance tax and witness fees due; form

Sec. 10. (a) After the hearing required by section 9 of this chapter, the probate court shall determine the fair market value of the property interests transferred by the resident decedent and the amount of inheritance tax due as a result of his death. The court shall then enter an order stating the amount of inheritance tax due and the fees due witnesses under section 4 of this chapter. If the court finds that no inheritance tax is due, the court shall include a statement to that effect in the order.

(b) The court shall prepare the order required by this section on the form prescribed by the department of state revenue. The court shall include in the order a description of all Indiana real property owned by the resident decedent at the time of his death. The probate court shall spread the order of record in the office of the clerk of the circuit court. The clerk shall maintain the orders in a looseleaf ledger.

(c) The order described in this section is confidential.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.16; P.L.176-2003, SEC.1.

IC 6-4.1-5-11

Court determination of inheritance tax due; copies to interested persons

Sec. 11. The court shall immediately mail a copy of its determination of the fair market value of the property interests transferred by a resident decedent and the inheritance tax due as a result of the person's death to each interested person who filed a request for notice and provided a mailing address under section 3 of this chapter, the department of state revenue, and the county

treasurer.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.165-2002, SEC.3.

IC 6-4.1-5-12

Repealed

(Repealed by P.L.305-1987, SEC.38.)

IC 6-4.1-5-13

Appointment of temporary guardian

Sec. 13. A probate court shall appoint a temporary guardian to represent an individual if, at any time during the proceedings to determine the inheritance tax imposed as a result of a resident decedent's death, the court finds that the individual:

(1) is under eighteen (18) years of age or incapacitated (as defined in IC 29-3-1-7.5); and

(2) has an interest in the resident decedent's estate which is adverse to an interest which another person has in the estate.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.33-1989, SEC.5.

IC 6-4.1-5-14

Appraisal and determination of tax due on nonresident decedent's estate; determination without court intervention

Sec. 14. The department of state revenue shall determine the inheritance tax imposed as a result of a non-resident decedent's death. The department may appraise the property transferred by the decedent and determine the inheritance tax due without the intervention of a court.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-5-15

Orders with respect to nonresident decedent's estate; filing fees

Sec. 15. (a) The department of state revenue shall, with respect to a nonresident decedent's estate, enter an order which:

(1) states the fair market value of all property interests transferred by the decedent under taxable transfers;

(2) describes all Indiana real property so transferred by the decedent; and

(3) states the inheritance tax imposed as a result of the decedent's death.

(b) The clerk of the circuit court of each county in which real property described in the order is located shall spread a copy of the order of record.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.17; P.L.171-1984, SEC.5; P.L.192-1986, SEC.5; P.L.305-1987, SEC.8.

IC 6-4.1-5-16

Notice of taxes due upon nonresident decedent's estate

Sec. 16. The department of state revenue shall, by mail, give notice of the inheritance tax due as a result of a nonresident decedent's death to the personal representative of the decedent's estate or the trustee of property transferred by the decedent. However, if there is no personal representative or trustee, the department shall give the notice to each person liable for payment of the tax. Unless an appeal is initiated under IC 6-4.1-7-5 within ninety (90) days after the notice is given, the inheritance tax stated by the department in the notice is final.

As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-5-17

Transfers by will; property not specifically bequeathed or devised

Sec. 17. When property is transferred by will and is not specifically bequeathed or devised, the property is, for purposes of this article, to be treated as if it were transferred proportionately to and divided pro rata among all the general legatees and devisees named in the transferor's will, including all transfers under a residuary clause of the will.

As added by Acts 1976, P.L.18, SEC.1.