

IC 6-4.1-8

Chapter 8. Inheritance Tax Lien and Limitations on the Transfer of Decedent's Property

IC 6-4.1-8-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 4.6 of this chapter by P.L.26-1985 applies to property belonging to decedents who die after June 30, 1986.

(2) The amendments made to section 5 of this chapter by P.L.6-1999 apply to the estate of an individual who dies after June 30, 1999.

As added by P.L.220-2011, SEC.154.

IC 6-4.1-8-0.5

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.12. Amended by P.L.205-2013, SEC.108.

IC 6-4.1-8-1

Attachment and termination of lien; persons liable for inheritance tax

Sec. 1. The inheritance tax imposed as a result of a decedent's death is a lien on the property transferred by the decedent. Except as otherwise provided in IC 6-4.1-6-6(b), the inheritance tax accrues and the lien attaches at the time of the decedent's death. The lien terminates when the inheritance tax is paid, when IC 6-4.1-4-0.5 provides for the termination of the lien, or ten (10) years after the date of the decedent's death, whichever occurs first. In addition to the lien, the transferee of the property and any personal representative or trustee who has possession of or control over the property are personally liable for the inheritance tax.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.252-2001, SEC.5; P.L.182-2009(ss), SEC.231.

IC 6-4.1-8-2

Transfers prohibited until tax paid; limited transfers

Sec. 2. (a) The personal representative of a decedent's estate or the trustee of property transferred by the decedent may not transfer or deliver property to a transferee unless the inheritance tax imposed with respect to the transfer has been paid.

(b) If money is transferred by the decedent to a transferee for a limited period of time, the personal representative or trustee shall

retain the total inheritance tax imposed on all the interests in the money.

(c) If property other than money is transferred by the decedent to a transferee for a limited period of time, the transferees of the interests in the property shall pay to the personal representative or trustee the inheritance tax imposed on the interests. The personal representative or trustee shall apply to the appropriate probate court for a determination of the amount which each transferee is required to pay under this subsection.

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

IC 6-4.1-8-3

Sale of property to pay decedent's debts

Sec. 3. In order to pay the inheritance tax imposed as a result of a decedent's death, the personal representative of the decedent's estate or the trustee of property transferred by the decedent may sell property transferred by the decedent. The personal representative or trustee may sell the property in the same manner that he is authorized to sell property to pay the decedent's debts.

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

IC 6-4.1-8-4

Personal property; consent to transfer

Sec. 4. (a) A person who has possession of or control over personal property held jointly by a resident decedent and another person may not transfer the property to the surviving joint tenant, unless:

(1) the surviving joint tenant is the decedent's surviving spouse;
or

(2) the property is money held in a joint checking account;
without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

(b) Except as provided in subsection (c), a person who has possession of or control over personal property held in a trust that is subject to the Indiana inheritance tax or estate tax (before its repeal) at the time of a resident decedent's death may not transfer the property to a beneficiary or any other person, unless the beneficiary or other person is the decedent's surviving spouse, without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

(c) A person who has possession of or control over personal property held in trust may transfer the property without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death under the following conditions:

(1) The transferee is domiciled in Indiana.

(2) The transferee completes a sworn affidavit on a form

prescribed by the department of state revenue that states:

- (A) the transfer of the personal property is not subject to Indiana inheritance tax or estate tax (before its repeal); and
- (B) the reasons the transfer is not subject to tax.

(3) A copy of the affidavit required under subdivision (2) is immediately filed with the department of state revenue.

(d) A person who has possession of or control over a resident decedent's personal property (except proceeds payable under a life insurance policy) may not transfer the property to any other person, unless:

- (1) the other person is the decedent's surviving spouse; or
- (2) the property is money held in a checking account;

without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

(e) The department of state revenue or the appropriate county assessor may consent to a transfer if the department or the county assessor believes that the transfer will not jeopardize the collection of inheritance tax.

(f) The department of state revenue shall send a copy of any consent to transfer that it issues under this section to the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.8; Acts 1980, P.L.57, SEC.20; Acts 1981, P.L.91, SEC.1; P.L.59-1996, SEC.1; P.L.205-2013, SEC.109.

IC 6-4.1-8-4.5

Repealed

(Repealed by Acts 1982, P.L.57, SEC.1.)

IC 6-4.1-8-4.6

Checking account; notice of transfer of funds to person other than surviving spouse

Sec. 4.6. A person who has possession of or control over money held in a checking account in which a resident decedent had a legal interest shall notify the department or the county assessor of the county in which the resident decedent was domiciled at the time of death, when money is transferred from the account to a person, other than the resident decedent's surviving spouse.

As added by P.L.26-1985, SEC.11.

IC 6-4.1-8-5

Life insurance proceeds; damages payable in a cause of action maintained by a personal representative

Sec. 5. (a) Within ten (10) days after life insurance proceeds are paid to a resident decedent's estate, the life insurance company shall give notice of the payment to the department of state revenue.

(b) Not later than ten (10) days after damages payable under a

cause of action maintained by a personal representative under IC 34-9-3-4 are paid to a resident decedent's estate, the person making the payment shall give notice of the payment to the department of state revenue.

(c) The department of state revenue shall send a copy of any notice which it receives under subsection (a) or (b) to the county assessor of the county in which the resident decedent was domiciled at the time of the resident decedent's death.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.9; P.L.157-1992, SEC.1; P.L.6-1999, SEC.1; P.L.143-2009, SEC.2.

IC 6-4.1-8-6

Repealed

(As added by Acts 1976, P.L.18, SEC.1. Repealed by P.L.6-1999, SEC.2.)

IC 6-4.1-8-7

Violations of IC 6-4.1-8-4 or IC 6-4.1-8-5; penalties

Sec. 7. If a person violates a provision of section 4 or 5 of this chapter, he is liable for the taxes imposed under this article as a result of the resident decedent's death and is subject to an additional penalty not to exceed one thousand dollars (\$1,000). The department of state revenue shall initiate an action in the name of this state to collect the taxes and the penalty which the person is liable for under this section.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.22; P.L.87-1983, SEC.6.

IC 6-4.1-8-8

Repealed

(As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1978, P.L.2, SEC.624. Repealed by P.L.6-1999, SEC.2.)