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Taxes After Death – Another One of Life's Certainties

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There is an old saying that the only things in life that are certain are death and taxes. However, what about *death taxes*? Both state and federal law include a tax scheme that allows for your assets to be taxed when they are passed to your heirs at your death. The federal "estate tax" system only taxes assets if they are over a very substantial amount (most individuals are not subject to federal estate tax). However, the Pennsylvania "inheritance tax" system contains no such "exemption," and so an estate of $50,000 and an estate of $50 million would both be subject to Pennsylvania inheritance tax. Thus, in Pennsylvania, death taxes can be added to the list of life's certainties.

There are certain types of assets or “death transfers” that are not subject to Pennsylvania inheritance tax:

1. Life insurance on the life of the person who has died
2. Property given away at least a year before death
3. Certain types of family farm transfers

Apart from these exceptions, most assets that an individual owns at death will be subject to Pennsylvania inheritance tax. It also should be noted that assets which individuals transfer out of his or her name but in which the individual retains certain types of interests or “strings,” (right to receive income) also are subject to Pennsylvania inheritance tax. For example, assets in a revocable living trust are subject to Pennsylvania inheritance tax at the individual’s death.

Like income tax, Pennsylvania inheritance tax allows for various deductions to be claimed against the gross estate assets. These deductions include funeral expenses, costs of estate administration, final bills owing at death, etc. Thereafter, the Pennsylvania inheritance tax rates applied against the net estate are as follows:

- 0% – Spouses and charities
- 4.5% – Children, stepchildren, grandchildren, parents, and grandparents
- 12% – Siblings
- 15% – All others

As mentioned above, these rates apply to all estates, and there is no exemption for estates below a certain dollar amount. Inheritance tax must be paid 9 months after an individual’s death. If an estimated tax payment is made within 3 months after an individual’s death, Pennsylvania allows a 5% discount to be applied against the tax.

Under the federal estate tax scheme, estates are only subject to tax if they are over a certain dollar amount or “exclusion,” and this exclusion has generally increased over time. For example, in 2001, the exclusion was $675,000; in 2011 the exclusion was $5 million; and in 2018, the exclusion has increased to $11.2 million. This is a result of President Trump’s recent Tax Cuts and Jobs Act. Unlike Pennsylvania inheritance tax, federal estate tax will impact a small percentage of Pennsylvania residents. However, also unlike Pennsylvania inheritance tax, the federal estate tax rate is very high. In 2001, the top estate tax rate was 55%. The top tax rate decreased to 35% in 2011 and 2012, and the current top tax rate is 40%.

Under these circumstances in Pennsylvania, death taxes can be added to the list of life’s certainties. For more information regarding death taxes please contact Saxton & Stump’s Trusts & Estates Group.

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