

Pennsylvania Inheritance Tax & Joint Bank Accounts

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People are often surprised to learn that avoiding probate by placing a bank account in joint tenancy does not avoid inheritance tax. While that has never been the case, people have historically believed it to be the law and frequently have not paid the tax. So, the Commonwealth decided to do something about it.

As with income taxes, inheritance tax is a matter of self-reporting. But if the IRS has Form 1099 information on file showing that you received taxable income, they will file an income tax return for you if you don't file one. The Commonwealth does sort of the same thing for inheritance tax on joint bank accounts. They get their equivalent of Form 1099 information by virtue of having passed a law requiring banks to notify the Department of Revenue of the deaths of joint account owners. Upon notification by the bank, the Department of Revenue has the local Register of Wills office (its collection agent for inheritance tax) mail to the surviving joint owner a REV-1543 Pennsylvania Inheritance Tax Information Notice And Taxpayer Response, which is essentially an inheritance tax return for one specific bank account. If you receive this (it comes in triplicate) but do not respond, you will be billed for the tax claimed to be due, and disputing the bill is not an easy task.

The REV-1543 has a preliminary calculation of the "Potential Tax Due" based entirely on the information received from the bank. This is followed by a section of checkboxes, the first four (A through D) of which provide for confirmation or revision of the bank information, as well as for claiming deductions for the decedent's debts or funeral expenses paid by the surviving joint owner. The fifth checkbox is "E [] Asset will be reported on inheritance tax form REV-1500." What's that? The REV-1500 is the return that the personal representative (executor or administrator) of an estate files. Since an estate may or may not be responsible for the inheritance tax on non-probate assets like joint accounts, the REV-1500 has schedules for both probate and non-probate assets, including a Schedule F for jointly titled assets.

The purpose of REV-1543 is to make sure that the tax on a joint bank account is paid regardless of whether an estate files a REV-1500. The purpose of checkbox E on the REV-1543 is to deflect tax collection efforts away from the surviving joint owner toward the estate, so that the tax is not being collected twice. The theory is that since both the REV-1543 and REV-1500 are filed in the same place, there should be no trouble coordinating the filed returns to determine whether a REV-1543 joint bank account has in fact been reported on a filed REV-

1500 return. If it has, the REV-1543 is moot. If it hasn't, the REV-1543 remains active for assessment and collection.

The system is fail safe only from the Commonwealth's point of view. Were it not for the checkbox E option to deflect attention away from the REV-1543 toward the estate, the system would operate by default to tax the bank account twice. The system is only designed to prevent non-payment by both. If a surviving joint owner does not resort to checkbox E on REV-1543 and pays the tax, the estate could also pay the tax without knowing that the joint owner had already done so, and there would be nothing prompting a government search for a matching entry on a REV-1500 to avoid double taxation. But if that happened, it would be the taxpayers' fault, not the Commonwealth's.

So, if you receive a REV-1543, it's up to you to find out whether there's an estate that's going to report the account on its REV-1500 and pay the tax. If the answer is no, use the REV-1543 to pay the tax you owe. If the answer is yes, you can file the REV-1543 having checked box E, and you can do this even if the REV-1543 arrives years after the estate has been closed (perhaps because the bank only recently received notice of death). At that point, you've done everything you can to prevent double taxation.

Unfortunately, it may not be enough, and it won't be your fault, it will be the Dept. of Revenue's fault. My law office has recently experienced an alarming increase in unjustified Department of Revenue inheritance tax collection efforts. Clients are receiving REV-1543s for accounts for which the tax was paid years ago. They are receiving notices years after the fact that their REV-1543s were "accepted as filed" with tax and interest due, even though they never received a REV-1543 in the first place. My inquiries to both the local inheritance tax office and the main Harrisburg office were answered similarly with claims that the problems were isolated and due to timing issues, which historically has been a problem with the system. What usually happened was that an estate to which a REV-1543 shifted responsibility via checkbox E didn't file its REV-1500 within nine months, triggering automatic renewed collection efforts against the joint account owner. Timing might be off kilter by months at most, and a phone call to the local inheritance tax office was usually all that was needed to resolve the problem.

What has been happening recently is entirely different, and the Department of Revenue is not acknowledging that it has a new problem. The problem almost certainly results from a recent change in automation. The operation which must occur to prevent double taxation of a joint bank is the match-up of the account's scheduling on the REV-1543 and REV-1500. A computer can't do it; the necessary comparison requires human eyes. So, either the comparison isn't being made or isn't being properly communicated throughout the Department's local and main office computer system. The Commonwealth's fail-safe system is currently in failure mode. So, if you receive a REV-1543 or an official assessment and demand for payment notice that a REV-1543 has been "accepted as filed," you cannot simply ignore it on the basis of your having already paid it or on the belief that an estate did so. You should immediately contact the inheritance tax division of your local Register of Wills office or the attorney for the estate to contest the Commonwealth's improper collection efforts.