

“Surprise” Inheritance Tax

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Many years ago, the Commonwealth of Pa. got fed up with the persistent “barbershop law” myth that placing assets in joint tenancy caused them to escape inheritance tax, so a law was passed requiring banks to notify the Dept. of Revenue of a joint account owner’s known death and the names and addresses of all other joint owners. The Dept. of Revenue then forwards the bank’s information to the Register of Wills (its collection agent) for the county of the decedent’s residence, and the Register of Wills mails notice of potential inheritance due to each surviving joint owner. Surprise, you owe inheritance tax! Well, maybe yes – maybe no.

If you are a surviving joint account owner and haven’t already received your surprise, be on the lookout for it. It will arrive (in triplicate) as a Form REV-1543, which is essentially an inheritance tax return for only one asset. If there are other joint owners, each should get the Form REV-1543 for their percentage ownership share. If there are multiple accounts for which you are a joint owner, you should get a Form REV-1543 for each one. You need to understand that if you do not respond at all, by filling out and filing the Form REV-1543 (in duplicate – the third copy is for you to keep for your records), you will eventually get a bill for whatever the Dept. calculated the potential tax to be, whether or not calculated correctly and whether or not you are legally obligated to pay it yourself. You therefore have to be careful in your response, and you have to do some investigation. You have plenty of time, however, because inheritance tax isn’t due until nine months after death, and the Dept. of Revenue can’t send you a bill for tax that is not yet due.

The document’s instructions are actually pretty good in telling you how inheritance tax works (different tax rates depending on relationship to the decedent, available deductions, etc.), and the Part 3 discussion of ITF (in trust for) accounts shows you how the Dept.’s use of Form REV-1543 has expanded beyond application only to joint bank accounts. Though not specifically mentioned, POD (pay on death) bank accounts and TOD (transfer on death) stock or mutual fund accounts can also cause issuance of Form REV-1543.

The [Part 1] response choice checkboxes and [Part 3] tax calculation correction section should alert you of the need to exercise caution in responding. Their existence demonstrates that the Dept. of Revenue is guessing your relationship to the decedent and presuming correctness of the information supplied by the bank. If any of that is wrong, the tax calculation is going to be wrong. How could the bank information be wrong? Well, for one thing, don’t forget that the information will have been processed through three different offices before you get it, heightening the potential for clerical error. And even if the indicated date-of-death bank balance is correct, it could still be “wrong” in the sense that outstanding checks clear after death,

reducing the actual balance available to the surviving joint owners. True, those outstanding checks are available to be claimed as deductible debts [Part 1 - checkbox C], but you would never know about them unless you regularly received copies of the decedent's bank statements.

The availability of Part 1 - checkbox E is significant, and it is often the correct and only response that should be made. Using it derails the separate assessment process with regard to the subject account by directing the Dept. of Revenue to look for the account to be scheduled on a Form REV-1500 return, which is a comprehensive return that schedules all of a decedent's probate estate (i.e. solely-owned) assets and non-probate assets (like joint accounts). If a formal probate estate is raised for the decedent, the appointed personal representative (executor or administrator) is required to file the necessary REV-1500 return. However, the return is designed to provide a mechanism for the personal representative to direct the Dept. of Revenue to separately bill recipients of scheduled non-probate assets, and this is often perfectly proper, because a probate estate is only required to pay the inheritance tax on non-probate assets when there is a directive in the decedent's Last Will & Testament to do so. Nevertheless, an estate often voluntarily elects to pay the tax on non-probate assets even if not legally required to do so. So you really can't know how to respond to a REV-1543 without knowing whether the account will be reported and the tax paid by an estate, because if you respond other than by using Part 1 – checkbox E, you run the risk that the tax you pay or deductions you claim might be duplicated on the estate's REV-1500 return, and that could cause all sorts of problems. You should therefore first find out if there is a probate estate. If so, contact the executor or administrator and find out if the estate intends to pay the tax on your joint account (or other non-probate asset). If so, you can safely respond on the REV-1543 by checking box E in Part 1. If not, you can use the REV-1543 to satisfy your inheritance tax obligation for the subject asset.

I realize that the foregoing isn't going to make a whole lot of sense unless you have a Form REV-1543 in front of you to look at, but all of our monthly newsletters remain available on our website [www.grayelderlaw.com], and you will always be able to refer to this article in the future if the need arises. However, you also need to be generally aware of the taxability of joint assets and other non-probate asset transfers, because you may never receive the Form REV-1543 for an account that should have caused one to issue and for which you may owe tax. Financial institutions sometimes fail to comply with their notification duty, but more often than not, they simply haven't received notice of the account holder's death. If you are the surviving owner of a decedent's account and have not yet received a Form REV-1543 for it, you should investigate matters.