

Understanding Pennsylvania Inheritance Tax - Part 2

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January 2021

Over the last several months, Julian Gray Associates has fielded questions from numerous potential clients and current clients who have concerns regarding Pennsylvania's inheritance tax laws. My colleague Karen S. Timko, CELA wrote November's newsletter article on this very topic. Given the recent popularity of the issue, here is some additional information on Pennsylvania's inheritance tax.

In 1789, Benjamin Franklin famously wrote in a letter to Jean-Baptiste Le Roy that "nothing can be said to be certain, except death and taxes." Pennsylvania takes this statement to heart by combining both certainties and imposing an inheritance tax on the first dollar inherited by most beneficiaries. Pennsylvania is one of only six states in the Union with an inheritance tax. When meeting with Pennsylvania clients for estate planning purposes, there is often confusion and disappointment when informed that their beneficiaries are subject to state inheritance tax.

Typically, this concept is confused with the tax regulations regarding the much friendlier federal lifetime estate tax exemption of \$11.7 million per individual in 2021. As of 2020, thirty-eight states in the Union do not impose a state inheritance or estate tax of any kind. Fifteen states have an estate tax where the taxes are paid by the decedent's estate before assets are distributed to heirs. These states however will not impose an estate tax on a decedent's estate until the value is above a certain dollar exemption amount. The states (which include Pennsylvania) impose an inheritance tax which is remitted by the beneficiary of an estate and paid based on the amount that said beneficiary receives and their relation to the decedent.

In Pennsylvania, a state inheritance tax has been imposed on beneficiaries since at least 1826. Throughout that period, the tax percentages have been both greater and lesser than today's current rates. For example, between 1967 and 1994, there was a 6% inheritance tax rate between spouses. Under the current rates, there is no inheritance tax for spousal beneficiaries. Since 1994 the Pennsylvania inheritance tax rates have been as follows: 0% between spouses; 0% from a child under age 22 to a natural, adoptive or stepparent; 4.5% to lineal descendants/ascendants; 12% to siblings and 15% to any other beneficiary.

Pennsylvania has created a system to further ensure that individuals have a more difficult time minimizing the inheritance tax owed by their beneficiaries upon their death. For example, Pennsylvania's inheritance tax regulations include a "clawback" on any gifts made by a

decedent within one year of their passing and is therefore includable for inheritance tax assessment of the estate. Additionally, attempted minimization of inheritance tax can have unintended consequences in other areas of an individual's or family's tax picture, such as capital gains taxes on appreciated assets. Therefore, understanding and minimizing the state inheritance tax liability of their beneficiaries requires careful planning and an understanding of state and federal income tax law as well. Pennsylvania also implemented incentives and deadlines to ensure that any inheritance tax owed is paid in a prompt and accurate fashion. The specific deadlines that must be met by the administrator of a decedent's estate include a 5% discount for paying the tax within three months of the decedent's date of death and for submitting the final return on behalf of the estate within nine months of the decedent's date of death. The consequences of not meeting these deadlines include not being able to take advantage of tax savings and creating the possibility of additional tax owed through the tolling of interest. An attorney knowledgeable in estate administration is instrumental to an estate administrator in making sure that they are in adherence with the various deadlines and that the estate is taking advantage of discounts where possible.

Meeting with an attorney is also important to determine what estate assets are subject and not subject to inheritance tax liability. For instance, most clients are surprised to learn that inheritance tax not only applies to bank accounts and investments but to tangible property in the home as well. One asset that is not subject to Pennsylvania inheritance tax however is life insurance death benefit proceeds. These statutory intricacies are exactly why it is beneficial to having an attorney involved in both the estate planning and administrative phases of a person's estate.

Readers of this newsletter may be wondering if it is worth assessing the contents of their estate and their estate plan to minimize inheritance tax liability for their beneficiaries. The answer is yes and the opportunity to do so depends on a variety of factors and meeting with an estate planning and administration attorney will help shed light on the state's inheritance tax laws as it relates to your estate. Others who read this may have recently suffered a loss in their life and have been called to administer an estate or trust and are debating whether it is necessary to hire an estate attorney. Again, I would advise that the answer to that question is yes, that it is necessary to hire a knowledgeable estate attorney due to various demands and deadlines required of somebody in that position. If you have inheritance tax related questions or any other estate planning or administrative concerns, contact a certified elder law attorney at Julian Gray Associates.

We at Julian Gray Associates wish your family a happy and healthy 2021 and look forward to assisting you with your estate planning concerns and needs.