

New (And Improved) State Inheritance Taxes

On Wednesday, May 17, 2000, Pennsylvania Senate Bill 2 was signed into law by Governor Ridge. The new law is 90 pages long. We're going to look at about three pages of it.

Effective for estates of decedents dying June 30, 2000, there are new rates and new exclusions. To review, the Pennsylvania inheritance tax applies to the assets received from a decedent by beneficiaries. There is no "free pass" for state inheritance taxes as there is for federal estate taxes; the inheritance tax is payable on the first dollar of value. The rates of tax are based on the relationship of the beneficiaries to the decedent. Under current law, before the change, there are three rates.

The rate for assets passing to a spouse is zero percent. (Yes, I know that sounds silly, but that's how they wrote the law. There is no tax on property passing to a surviving spouse.) The rate for assets going to the decedent's parents, grandparents, children (and their spouses), grandchildren and their descendants is 6 percent. The rate for assets passing to all other persons is 15 percent..

Under the new law, the rate for assets going to decedent's parents, grandparents, children (and their spouses), grandchildren and their descendants is reduced from 6 percent to 4½ percent. This means that for a net estate of \$1 million dollars going to a child, the Pennsylvania inheritance tax will be \$15,000 less, \$45,000 instead of \$60,000. For a \$4 million estate, the reduction is \$60,000. This change represents a 25 percent tax cut for property passing to lineal descendants and ancestors.

The new law also changed the rate of property passing to siblings. The old rate for these transfers was 15 percent, the new rate is 12 percent. A new class of beneficiaries has been created which consists of the decedent's "siblings." A sibling is defined as "an individual who has at least one parent in common with the decedent, whether by blood or by adoption." Stepsisters and stepbrothers are thus included.

The third change is a new rate for assets passing from a person 21 or younger to a natural or adoptive parent, or to a stepparent. The rate is zero percent. If a child dies and his assets pass to his parents under the intestacy statute or under a will, under current law, all of the child's assets are taxed at six percent. Under the new statute, for children who die at age 21 or younger, there will be no tax. Similarly, the current situation is that if a parent establishes a bank account jointly with a child, and the child predeceases the parent, half of the joint account is taxed at six percent. This means the parent could end up paying inheritance tax on money that he or she put in the account in the first place. The new law will eliminate this tax for joint accounts when the child dies at age 21 or younger. Note that when the child turns 22, the parent will once again be liable for tax if the child predeceases the parent.

The Pennsylvania inheritance tax rate for property passing to all others remains at 15 percent. Charities remain exempt from the Inheritance Tax.

The new law also makes a change in the time limits for disclaimers. Currently, everyone

is limited to nine months from date of death to renounce an inheritance and have the property taxed as if it passes to the new beneficiary instead of the beneficiary making the disclaimer. Under the new statute, a surviving spouse may be allowed extra time if he or she takes an elective share of the estate. A surviving spouse always has the right to elect to take a one-third share of the decedent's augmented estate instead of receiving benefits under the will. If the spouse takes an elective share, the time for disclaimer is extended to the time for making the election and extension thereof.

Note well: There is no extension of time for making a disclaimer for federal estate tax purposes. That limit remains a hard and fast nine months from the date of death.

Taking an elective share is a topic unto itself. The short version is that the state frowns on someone writing a spouse completely out of a will (leaving everything to the pizza delivery man or the dental hygienist) or even all to the children. The remedy is for the surviving spouse to say by making an election, "Forget what was or was not left to me in the will, I'll just take one third of everything, thank you very much." Then starts the contest between the spouse and the "others" as to what is included in "everything."

Here is the web site where you can view Senate Bill 2 in its entirety:
www.legis.state.pa.us and navigate to Senate Bill 2 by going to Session Information and then the Electronic Billroom. Look for SB2. You can look at it in html format, or, if you have the free Adobe Reader software, in pdf format, the latter format having the advantage of being able to be searched and saved, in whole or in part.