Indiana Department of Revenue

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Departmental Notice	#44
Subject:	Repeal of the Inheritance Tax, Estate Tax, and Generation Skipping Tax
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Reference(s):	IC 6-4.1-1-0.5; IC 6-4.1-1-4; IC 6-4.1-2-0.5; IC 6-4.1-3-0.5; IC 6-4.1-4-0.2; IC 6-4.1-5-0.5; IC 6-4.1-5-1.1; IC 6-4.1-6-0.5; IC 6-4.1-7-0.5; IC 6-4.1-8-0.5; IC 6-4.1-8-4; IC 6-4.1-9-0.5; IC 6-4.1-10-1; IC 6-4.1-10-1.5; IC 6-4.1-10-4; IC 6-4.1-11-0.1; IC 6-4.1-11-1; IC 6-4.1-11-2; IC 6-4.1-11-3; IC 6-4.1-11-4; IC 6-4.1-11-5; IC 6-4.1-11-6; IC 6-4.1-11-7; IC 6-4.1-11.5; IC 6-4.1-12-0.5

Replaces Notice #44, dated December 2019

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Summary of Changes

Aside from technical, nonsubstantive changes, this notice has been updated to remove outdated references.

Introduction

Effective January 1, 2013, House Enrolled Act (HEA) 1001 (2013) repealed the inheritance tax, the estate tax, and the generation skipping tax. Sections 99 through 110 of the bill repealed the inheritance tax. Sections 111 through 113 applied to refunds of the inheritance tax. Sections 114 through 119 and Section 121 applied to the repeal of the estate tax. Section 120 applied to distributions to eligible counties, and Section 122 applied to the repeal of the generation skipping tax. Section 123 repealed provisions concerning the administration of the inheritance tax. The repeal of the inheritance tax applied to any decedent whose death occurs after December 31, 2012, and the repeal of the estate tax and the generation skipping tax was effective on January 1, 2013. As of April 1, 2016, any inheritance tax return required to be filed must be filed with the department.

Refund of Taxes Paid for Deaths Before January 1, 2013

IC 6-4.1-10-1 provides that a person may file a claim for refund of the inheritance or estate tax which has been erroneously or illegally collected. The person must file the claim within three years after the tax is paid or one year after the tax is finally determined by a probate court, whichever is later.

A person filing a claim for refund with the department must use Form IH-5. The claim must include the amount of the refund claimed and the reason the person is entitled to a refund. The amount of the refund a person is entitled to is the amount of erroneously or illegally collected tax, plus interest at a rate of 6% per year if the tax is not refunded within 90 days after the later of the date on which the refund claim is filed or the date the department receives the inheritance tax return and order of the probate court.

Refund of Taxes Paid for Deaths That Occur in 2013

A person who paid taxes for the estate of a person who died after December 31, 2012, is entitled to a refund. The entire amount of a refund must be paid by the department, including any amounts retained by the county. A person filing a claim for refund must use Form IH-5.

If a county is eligible to receive an inheritance tax replacement amount, the amount of the replacement shall be reduced by the amount of inheritance taxes retained by the county. If the county is not eligible to receive an inheritance tax replacement amount, the department may deduct the amount of any inheritance taxes retained by the county from any distribution of revenue to the county.

Final Distribution to Counties of Inheritance Tax Replacement Amount

Before August 15, 2013, the treasurer of state was required to distribute an inheritance tax replacement amount to each county eligible to receive a distribution with respect to inheritance tax collections in the state fiscal year that began on July 1, 2012. The amount of the inheritance tax replacement for each county was determined as follows:

1. Determine the amount distributed to the county in 2012 with respect to inheritance tax collections in the state fiscal year that began on July 1, 2011.
2. Multiply the Step 1 amount by 91%.
3. Determine the difference between the Step 2 result minus the amount of inheritance tax retained by the county with respect to a decedent's death occurring in 2013.

Repeal of Estate Tax and Generation Skipping Tax

The estate tax and the generation skipping tax were effectively repealed after December 31, 2004, as the result of federal legislation. The Indiana estate tax and generation skipping tax were "pickup" taxes based on federal taxes. There has not been any Indiana estate tax or generation skipping tax imposed for those individuals dying after Dec ember 31, 2004. In 2012, Congress made the repeal of the federal state death tax and credit and the generation skipping tax credit permanent. At the state level, HEA 1001 (2013) repealed the Indiana estate tax and generation skipping tax.

If you have any questions concerning this notice, please contact the Tax Policy Division at taxpolicy@dor.in.gov.

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