

IC 29-2-12

Chapter 12. Apportionment of Federal Estate Taxes

IC 29-2-12-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of section 1.5 of this chapter by P.L.266-1989 does not apply to:

(A) a will;

(B) a trust; or

(C) another instrument governing the distribution of assets following an individual's death;

executed before July 1, 1989.

(2) The amendments made to section 7 of this chapter by P.L.266-1989 do not apply to:

(A) a will;

(B) a trust; or

(C) another instrument governing the distribution of assets following an individual's death;

executed before July 1, 1989.

As added by P.L.220-2011, SEC.479.

IC 29-2-12-1

Purpose

Sec. 1. The purpose of this chapter is to provide for an equitable apportionment of federal estate tax imposed upon decedents' estates under the provisions of the United States revenue code.

(Formerly: Acts 1969, c.175, s.1.) As amended by Acts 1982, P.L.171, SEC.72.

IC 29-2-12-1.5

"Will" defined

Sec. 1.5. As used in this chapter, "will" includes a trust or other instrument governing the distribution of assets following an individual's death.

As added by P.L.266-1989, SEC.1.

IC 29-2-12-2

Heirs and beneficiaries; charitable or marital deduction or exemption

Sec. 2. Unless a decedent shall otherwise direct by will, the federal estate tax imposed upon decedent's estate, shall be apportioned among all of the persons, heirs and beneficiaries of decedent's estate who receive any property which is includable in the total gross estate of said decedent for the purpose of determining the amount of federal estate tax to be paid by said estate, Provided, That no part of the federal estate tax shall be apportioned against property which, in the absence of any apportionment whatsoever, would qualify for any charitable, marital or other deduction or exemption,

nor against recipients of such property on account thereof.
(Formerly: Acts 1969, c.175, s.2.)

IC 29-2-12-3

Payment; recovery

Sec. 3. The personal representative of decedent's estate or the person paying the federal estate tax imposed upon said estate by said United States revenue code shall be entitled to recover such tax so paid proportionately from each such person, heir, or beneficiary as is hereinafter provided.

(Formerly: Acts 1969, c.175, s.3.)

IC 29-2-12-4

Method of apportionment

Sec. 4. The portion of the federal estate tax to be paid by each person, heir, or beneficiary of a decedent's estate shall be determined by dividing the value of the property received by the person, heir, or beneficiary, which is included in the net taxable estate, by the amount of the net taxable estate, and multiplying the result by the amount of the total federal estate tax paid.

(Formerly: Acts 1969, c.175, s.4.) As amended by P.L.36-2011, SEC.6.

IC 29-2-12-5

Liens

Sec. 5. That portion of said federal estate tax apportioned to each person, heir, or beneficiary receiving property as aforesaid, shall constitute a lien upon the property received by said person, heir or beneficiary until the amount thereof has been paid or reimbursed to the personal representative of decedent's estate or the person other than the personal representative who has paid such tax.

(Formerly: Acts 1969, c.175, s.5.)

IC 29-2-12-6

Deduction of amounts; action for recovery

Sec. 6. The personal representative of decedent's estate shall, prior to final distribution of the estate, deduct the amount of federal estate tax apportioned to each heir or beneficiary, if such personal representative is in possession of sufficient property distributable to such heir or beneficiary to pay such apportioned share of said federal estate tax. In the event that such personal representative does not have property of at least the value of such apportioned share of said federal estate tax, said personal representative may recover such apportioned share by an action in court.

(Formerly: Acts 1969, c.175, s.6.)

IC 29-2-12-7

Will providing for payment

Sec. 7. (a) This chapter shall not be applicable to estates where the decedent has, by will, provided for the payment of federal estate

tax either by the estate or by the residue of the estate.

(b) A specific direction in a will to pay federal estate tax from the testator's estate or the residue of the estate shall be considered a provision for payment under subsection (a).

(Formerly: Acts 1969, c.175, s.7.) As amended by Acts 1982, P.L.171, SEC.73; P.L.266-1989, SEC.2.