

## **IC 6-4.1-11**

### Chapter 11. Indiana Estate Tax

#### **IC 6-4.1-11-0.1**

##### **Application of certain amendments to chapter**

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

(1) The amendments made to section 2 of this chapter by P.L.78-1993 do not apply to individuals who die before July 1, 1993.

(2) The amendments made to section 3 of this chapter by P.L.252-2001 apply to the estate of an individual who dies after June 30, 2001.

*As added by P.L.220-2011, SEC.156.*

#### **IC 6-4.1-11-1**

##### **Imposition of estate tax**

Sec. 1. A tax to be known as the "Indiana estate tax" is imposed upon a resident or nonresident decedent's estate.

*As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.58-1990, SEC.2.*

#### **IC 6-4.1-11-2**

##### **Computation for residents and nonresidents; determination of value of Indiana gross estate**

Sec. 2. (a) The Indiana estate tax is the amount determined in STEP FOUR of the following formula:

STEP ONE: Divide:

(A) the value of the decedent's Indiana gross estate; by

(B) the value of the decedent's total gross estate for federal estate tax purposes.

STEP TWO: Multiply:

(A) the quotient determined under STEP ONE; by

(B) the federal state death tax credit allowable against the decedent's federal estate tax.

The product is the Indiana portion of the federal state death tax credit.

STEP THREE: Subtract:

(A) the amount of all Indiana inheritance taxes actually paid as a result of the decedent's death; from

(B) the product determined under STEP TWO.

STEP FOUR: Determine the greater of the following:

(A) The remainder determined under STEP THREE.

(B) Zero (0).

(b) For purposes of this section, the value of a nonresident decedent's Indiana gross estate equals the total fair market value on the appraisal date of tangible personal property and real estate which had an actual situs in Indiana at the time of the decedent's death and which is included in the decedent's gross estate for federal estate tax purposes under Sections 2031 through 2044 of the Internal Revenue

Code.

(c) For purposes of this section, the value of a resident decedent's Indiana gross estate equals the total fair market value on the appraisal date of personal property and real estate that had an actual situs in Indiana at the time of the decedent's death and all intangible personal property wherever located that is included in the decedent's gross estate for federal estate tax purposes.

(d) For purposes of this section, the value of a resident or nonresident decedent's total gross estate for federal estate tax purposes equals the total fair market value on the appraisal date of the property included in the decedent's gross estate for federal estate tax purposes under Sections 2031 through 2044 of the Internal Revenue Code.

(e) For purposes of determining the value of a decedent's Indiana gross estate and the decedent's total gross estate, the appraisal date for each property interest is the date on which the property interest is valued for federal estate tax purposes.

(f) The estate tax does not apply to a property interest transfer made by a resident decedent if the interest transferred is in:

(1) real property located outside Indiana, regardless of whether the property is held in a trust or whether the trustee is required to distribute the property in-kind; or

(2) real property located in Indiana, if:

(A) the real property was transferred to an irrevocable trust during the decedent's lifetime;

(B) the transfer to the trust was not made in contemplation of the transferor's death, as determined under IC 6-4.1-2-4; and

(C) the decedent does not have a retained interest in the trust.

*As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1979, P.L.75, SEC.13; P.L.58-1990, SEC.3; P.L.78-1993, SEC.3.*

### **IC 6-4.1-11-3**

#### **Accrual of tax; time for payment**

Sec. 3. (a) The Indiana estate tax accrues at the time of the decedent's death. Except as provided in subsection (b) of this section, the Indiana estate tax is due twelve (12) months after the date of the decedent's death.

(b) Any Indiana estate tax that results from a final change in the amount of federal estate tax is due:

(1) eighteen (18) months after the date of the decedent's death; or

(2) one (1) month after final notice of the federal estate tax due is given to the person liable for the tax;

whichever is later.

*As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.252-2001, SEC.8.*

### **IC 6-4.1-11-4**

**Late payments; interest**

Sec. 4. If Indiana estate tax is not paid on or before the due date, the person liable for the tax shall pay interest on the delinquent portion of the tax from the due date until it is paid at the rate of six percent (6%) per year.

*As added by Acts 1976, P.L.18, SEC.1.*

**IC 6-4.1-11-5**

**Indiana estate tax as credit against inheritance tax**

Sec. 5. A person is entitled to claim the amount of Indiana estate tax paid under this chapter as a credit against inheritance tax imposed under this article if:

- (1) the inheritance tax is imposed after the Indiana estate tax is paid; and
- (2) both taxes are imposed as a result of the same decedent's death.

*As added by Acts 1976, P.L.18, SEC.1.*

**IC 6-4.1-11-6**

**Collection of tax; remittance; deposit; distribution to counties**

Sec. 6. (a) The department of state revenue shall collect the Indiana estate tax and the interest charges imposed under this chapter. The department shall remit the money which it collects under this chapter to the state treasurer, and the state treasurer shall deposit the money in the state general fund.

(b) Before August 15 of each year, the treasurer of state shall distribute to each county the amount determined under subsection (c) for the county. There is appropriated from the state general fund the amount necessary to make the distributions under this section.

(c) The department of state revenue shall determine the inheritance tax replacement amount for each county, using the following formula:

STEP ONE: Determine the amount of inheritance tax revenue retained by each county in each state fiscal year beginning with the state fiscal year that began July 1, 1990, and ending with the state fiscal year that ends June 30, 1997.

STEP TWO: Determine the average annual amount of inheritance tax revenue retained by each county using five (5) of the seven (7) state fiscal years described in STEP ONE after excluding the two (2) years in which each county retained its highest and lowest totals of inheritance tax revenue.

STEP THREE: Determine the remainder of the STEP TWO amount minus the amount of inheritance taxes retained by the county during the immediately preceding state fiscal year.

*As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.254-1997(ss), SEC.11.*

**IC 6-4.1-11-7**

**Estate tax owing; final determination; appeal**

Sec. 7. A probate court's final determination concerning the

amount of Indiana estate tax owing under this chapter may be appealed to the tax court in accordance with the rules of appellate procedure.

*As added by P.L.59-1990, SEC.3.*