

COMMISSIONER'S DIRECTIVE #44

APRIL 2012

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SUBJECT: 2012 Legislative Changes to Inheritance Tax

REFERENCES: IC 6-4.1-1-3; IC 6-4.1-2-8; IC 6-4.1-3-10; IC 6-4.1-5-1; IC 6-4.1-11-6

EFFECTIVE: Upon Publication

INTRODUCTION

Several provisions in the Indiana Code related to the inheritance tax were enacted during the 2012 legislative session. These enactments include an increase in the Class A exemption amount, an expansion of the Class A exemption, the inclusion of individuals holding a beneficial or ownership interest in an entity as transferees when a transferor makes a transfer to the entity, as well as a phase-out of the inheritance tax. This directive details these new changes. For more general information related to inheritance tax, please refer to *Inheritance Tax Notes*, the monthly newsletter published by the Inheritance Tax Administrator. You can contact the Inheritance Tax section via telephone at 317- 232-2154.

APPLICATION OF NEW POLICY

Effective Jan. 1, 2012, the definition of Class A transferees has been expanded to include a spouse, widow, or widower of a child or stepchild of the transferor for deaths that occur after Dec. 31, 2011. Under the previous law, a spouse, widow, or widower of a natural child of the decedent was classified as a Class B transferee entitled to a \$500 exemption amount, and a spouse, widow, or widower of a stepchild was classified as a Class C transferee entitled to a \$100 exemption amount.

Effective Jan. 1, 2012, the Class A exemption amount has been increased to \$250,000 for deaths that occur after Dec. 31, 2011. Under the previous law, the Class A exemption amount was \$100,000.

Effective July 1, 2012, a definition is added for an "entity." An entity is defined as a partnership, a limited partnership, a limited liability partnership, an association, a corporation, a limited liability company, a trust, or a similar entity.

Effective July 1, 2012, the definition of a "transferee" has been expanded to include an individual holding a beneficial or ownership interest in an entity when a transferor makes a transfer to the entity subject to the inheritance tax. The individual is liable for the same percentage of the inheritance tax as the individual's percentage of beneficial or ownership interest in the entity. However, under the old law, if a transferor made a transfer to an entity, the entity was considered a Class C transferee. Under this new provision, if a spouse is a 33% owner of the entity, 33% of the transfer will be exempt from inheritance tax. The rest of the owners will be subject to inheritance tax based on their relationships to the decedent, such as Class A, Class B, or Class C.

Effective Jan. 1, 2013, a credit is available to transferees against the amount of inheritance tax due for deaths that occur after Dec. 31, 2012. The credit, which may be claimed at the time of payment, is 10% in 2013 and increases by 10% per year through 2021. By 2022, the inheritance tax will be phased out completely. For deaths that occur after Dec. 31, 2021, there is no inheritance tax imposed on the decedent's transfer of property interests. The percentages of the credit available for deaths occurring in each calendar year are as follows:

2012—0%
2013—10%
2014—20%
2015—30%
2016—40%
2017—50%
2018—60%
2019—70%
2020—80%
2021—90%
2022—repealed

Effective July 1, 2012, a phase-out of the local county inheritance tax replacement enacted in 1997 will begin at a rate of 9% per year. This phase-out is related to the increase in the exemption for Class A transferees under the new law. The replacement amount for each county will be based on the inheritance tax replacement amount distributed to the county for the state fiscal year that began on July 1, 2011, multiplied by the following percentages:

91%—FY beginning July 1, 2012
82%—FY beginning July 1, 2013
73%—FY beginning July 1, 2014
64%—FY beginning July 1, 2015

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55%—FY beginning July 1, 2016

45%—FY beginning July 1, 2017

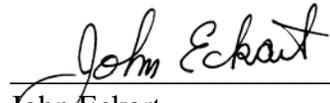
36%—FY beginning July 1, 2018

27%—FY beginning July 1, 2019

18%—FY beginning July 1, 2020

9%—FY beginning July 1, 2021

For fiscal years beginning after June 30, 2022, a county is not entitled to an inheritance tax replacement.



John Eckart
Commissioner