

Indiana Inheritance Tax Statutes with Annotations

Ind. Code 6-4.1

ARTICLE 4.1. DEATH TAXES

IC 6-4.1-1

Chapter 1. Definitions and Rules of Construction

IC 6-4.1-1-0.5

Applicability of chapter

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.1. Amended by P.L.205-2013, SEC.99.

IC 6-4.1-1-1

Application to article

Sec. 1. The definitions and rules of construction contained in this chapter apply throughout this article unless the context clearly requires otherwise.

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

IC 6-4.1-1-2

"Appropriate probate court" defined

Sec. 2. "Appropriate probate court" means the probate court which has jurisdiction over the determination of the inheritance tax imposed as a result of a resident decedent's death.

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

IC 6-4.1-1-3

Classes of transferees defined; adopted child as natural child

Sec. 3. (a) "Class A transferee" means a transferee who is any of the following:

- (1) A lineal ancestor of the transferor.
- (2) A lineal descendant of the transferor.
- (3) A stepchild of the transferor, whether or not the stepchild is adopted by the transferor. This subdivision applies to the estate of an individual who dies after June 30, 2004.
- (4) A lineal descendant of a stepchild of the transferor, whether or not the stepchild is adopted by the transferor.

(5) A spouse, widow, or widower of a child of the transferor. This subdivision applies to the estate of an individual who dies after December 31, 2011.

(6) A spouse, widow, or widower of a stepchild of the transferor, whether or not the stepchild is adopted by the transferor. This subdivision applies to the estate of an individual who dies after December 31, 2011.

(b) "Class B transferee" means a transferee who is a:

(1) brother or sister of the transferor;

(2) descendant of a brother or sister of the transferor; or

(3) spouse, widow, or widower of a child of the transferor. This subdivision applies to the estate of an individual who dies before January 1, 2012.

(c) "Class C transferee" means a transferee, except a surviving spouse, who is neither a Class A nor a Class B transferee.

(d) For purposes of this section, a legally adopted child is to be treated as if the child were the natural child of the child's adopting parent if the adoption occurred before the individual was totally emancipated. However, an individual adopted after being totally emancipated shall be treated as the natural child of the adopting parent if the adoption was finalized before July 1, 2004.

(e) For purposes of this section, if a relationship of loco parentis has existed for at least ten (10) years and if the relationship began before the child's fifteenth birthday, the child is to be considered the natural child of the loco parentis parent.

(f) As used in this section, "stepchild" means a child of the transferor's surviving, deceased, or former spouse who is not a child of the transferor.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1979, P.L.75, SEC.1; P.L.68-2004, SEC.1; P.L.81-2004, SEC.18; P.L.238-2005, SEC.1; P.L.220-2011, SEC.149; P.L.157-2012, SEC.2.

Estate of Odle v. Ind. Dept. of Revenue, 991 N.E.2d 631 (Ind. Tax Ct. 2013).

IC 29-1-2-5 Kindred of half blood; inheritance Sec. 5. Kindred of the half blood shall inherit the same share which they would have inherited if they had been of the whole blood.

Matter of Souder's Estate, 421 N.E.2d 12 (Ind. Ct. App. 1981).

State, Dept. of State Revenue v. National Bank of Logansport, 402 N.E.2d 1008 (Ind. Ct. App. 1980), rehearing denied May 1, 1980, 406 N.E.2d 260.

In re Estate of Quackenbush, 926 N.E.2d 127 (Ind. Tax Ct. 2010).

Crittenberger v. State Savings & Trust Co. 189 Ind. 411, 127 N. E. 552 (1920).

IC 6-4.1-1-3.5

"Entity"

Sec. 3.5. "Entity" refers to a partnership, limited partnership, limited liability partnership, association, corporation, limited liability company, trust, or similar entity.

As added by P.L.149-2012, SEC.1.

IC 6-4.1-1-4

Repealed

(Repealed by P.L.205-2013, SEC.100.)

IC 6-4.1-1-5

"Intangible personal property" defined

Sec. 5. "Intangible personal property" means incorporeal property, such as money, deposits, credits, shares of stock, bonds, notes, other evidences of indebtedness, and other evidences of property interests.

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

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Puschel, 582 N.E.2d 923 (Ind. Tax Ct. 1991).

Blood v. Poindexter, 534 N.E.2d 768 (Ind. Tax Ct. 1989).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Nichols, 659 N.E.2d 694 (Ind. Tax Ct. 1995).

IC 6-4.1-1-6

"Intestate succession" defined

Sec. 6. "Intestate succession" means a property interest transfer which is effected by the statute of descent and distribution or by operation of law, as the result of the death of an individual who fails to make a complete disposition of the property under a valid will.

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

IC 6-4.1-1-7

"Non-resident decedent" defined

Sec. 7. "Non-resident decedent" means an individual who was not domiciled in Indiana at the time of his death.

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

State Election Bd. v. Bayh, 521 N.E.2d 1313 (Ind.1988).

IC 6-4.1-1-8

"Person" defined

Sec. 8. "Person" includes a sole proprietorship, partnership, association, corporation, limited liability company, fiduciary, individual, and the department of state revenue.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.8-1993,

SEC.92.

IC 6-4.1-1-9

"Personal representative" defined

Sec. 9. "Personal representative" means a person who is appointed to administer a decedent's estate by a court which has jurisdiction over the estate.

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

IC 6-4.1-1-10

"Probate court" defined

Sec. 10. "Probate court" means a court of this state which has jurisdiction over probate matters.

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

IC 6-4.1-1-11

"Resident decedent" defined

Sec. 11. "Resident decedent" means an individual who was domiciled in Indiana at the time of his death.

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

State Election Bd. v. Bayh, 521 N.E.2d 1313 (Ind.1988).

IC 6-4.1-1-12

Repealed

(Repealed by P.L.58-1990, SEC.6.)

IC 6-4.1-1-13

"Tangible personal property" defined

Sec. 13. "Tangible personal property" means corporeal personal property, such as goods, wares, and merchandise.

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

IC 6-4.1-1-14

"Taxable transfer" defined

Sec. 14. "Taxable transfer" means a property interest transfer which is described in clauses (1) and (2) of IC 6-4.1-2-1 and which is not exempt from the inheritance tax under sections 1 through 7 of IC 6-4.1-3.

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

IC 6-4.1-1-15

Gender; singular as plural

Sec. 15. (a) Whenever a masculine gender pronoun is used in this article, it refers to the masculine, feminine, or neuter, whichever is appropriate.

(b) The singular form of any noun as used in this article includes the plural, and the plural includes the singular, where appropriate.
As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-2

Chapter 2. Imposition of the Inheritance Tax

IC 6-4.1-2-0.1

Application of certain amendments to chapter

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

(1) The amendments made to section 4 of this chapter by P.L.58-1990 do not apply to decedents who die before January 1, 1991.

(2) The amendments made to sections 2 and 3 of this chapter by P.L.78-1993 do not apply to individuals who die before July 1, 1993.

As added by P.L.220-2011, SEC.150.

IC 6-4.1-2-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.3. Amended by P.L.205-2013, SEC.101.

IC 6-4.1-2-1

Time of imposition; transfers subject to tax

Sec. 1. (a) An inheritance tax is imposed at the time of a decedent's death on certain property interest transfers made by the decedent. The transfer of a property interest is subject to the tax if:

(1) the property transferred is described in:

(A) section 2 of this chapter, if the property is transferred by a resident decedent; or

(B) section 3 of this chapter, if the property is transferred by a nonresident decedent;

(2) the transfer is described in section 4 of this chapter; and

(3) neither the transfer nor the property is exempt from the inheritance tax under IC 6-4.1-3.

(b) For purposes of this article, a transfer described in section 4 of this chapter is considered a transfer made by the deceased transferor regardless of when the transferee acquires the property interest.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.157-2012, SEC.4.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Biddle, --- N.E.2d ----, 2011 WL 397769 (Ind.Tax Ct. 2011) February 08, 2011.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Riggs, 735 N.E.2d 340 (Ind. Tax Ct. 2000).

Department of State Revenue, Inheritance Tax Div. v. Estate of Hardy, 703 N.E.2d 705 (Ind Tax Ct. 1998).

Estate of McNicholas v. State, 580 N.E.2d 978 (Ind. Ct. App. 1991), transfer denied

Estate of Hibbs v. Indiana Dept. of State Revenue, Inheritance Tax Div., 636 N.E.2d 204 (Ind. Tax Ct. 1994)

In re Grotirian's Estate, 405 N.E.2d 69 (Ind. Ct. App. 1980), transfer denied March 24, 1981.

Matter of Wisely's Estate, 402 N.E.2d 14 (Ind Ct. App 1980), rehearing denied April 30, 1980.

Crittenberger v. State Savings & Trust Co., 189 Ind. 411, 127 N.E.2d 552 (1920).

IC 6-4.1-2-2

Property transfers of resident decedent

Sec. 2. (a) The inheritance tax applies to a property interest transfer made by a resident decedent if the interest transferred is in:

- (1) real property located in this state;
- (2) tangible personal property which does not have an actual situs outside this state; or
- (3) intangible personal property regardless of where it is located.

(b) The inheritance 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 this state, 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 this state, 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 P.L.78-1993, SEC.1.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Nichols, 659 N.E.2d 694 (Ind. Tax Ct. 1995).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Puschel, 582 N.E.2d 923 (Ind. Tax Ct. 1991).

IC 6-4.1-2-3

Property transfers of nonresident decedent

Sec. 3. The inheritance tax applies to a property interest transfer made by a nonresident decedent if the interest transferred is in:

(1) real property located in this state, regardless of whether the property is held in a trust or whether the trustee is required to distribute the property in-kind, unless:

(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 section 4 of this chapter; and

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

(2) tangible personal property which has an actual situs in this state.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1979, P.L.75, SEC.2; P.L.78-1993, SEC.2; P.L.42-2011, SEC.16.

Blood v. Poindexter, 534 N.E.2d 768 (Ind. Tax Ct. 1989).

IC 6-4.1-2-4

Transfers of interests in property; transfers in contemplation of death; transfers for consideration

Sec. 4. (a) The inheritance tax applies to transfers of property interests described in subsection (d) and to the following types of property interest transfers:

(1) transfers which are made under a deceased transferor's will or under the laws of intestate succession, as a result of the transferor's death;

(2) transfers which are made in contemplation of the transferor's death;

(3) transfers which are made in such a manner that they are intended to take effect in possession or enjoyment at or after the transferor's death;

(4) transfers which are made in payment of a claim against the transferor's estate if:

(A) the claim results from a contract or antenuptial agreement made by the transferor; and

(B) payment of the amount claimed is due at or after the transferor's death under the terms of the transferor's will or the contract;

(5) those jointly held property transfers described in section 5 of this chapter;

(6) those transfers which are made by a trust deed in the manner described in section 6 of this chapter; and

(7) those transfers which are made to an executor or trustee in the manner described in section 7 of this chapter.

(b) A transfer is presumed to have been made in contemplation of the transferor's death if it is made within one (1) year before the transferor's date of death. However, the presumption is rebuttable.

(c) If a transfer described in subsection (a)(1), (a)(2), (a)(3), or (a)(4) is made for valuable consideration, the value of the property so transferred equals the remainder of:

(1) the total value of the property transferred; minus

(2) the equivalent in money value of the consideration received by the transferor.

For purposes of this subsection, the term "consideration" does not include love or affection.

(d) If at the time of death a surviving spouse has been entitled to income from a property interest that was the subject of a previous transfer exempt from inheritance tax under IC 6-4.1-3-7(b) or IC 6-4.1-3-7 (c), then the value of the property interest at the time of death of the surviving spouse is subject to the inheritance tax as if it were a transfer of property owned by the surviving spouse. The value of a property interest subject to inheritance tax under this section includes the value of each gift of any part of the property interest made by the surviving spouse in contemplation of death.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1982, P.L.55, SEC.1; P.L.58-1990, SEC.1.

1. Transfers in contemplation of death

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Baldwin, 652 N.E.2d 124 (Ind. Tax Ct. 1995).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Cohen's Estate, 436 N.E.2d 832 (Ind Ct. App. 1982).

Indiana Dept. of Revenue, Inheritance Tax Division v. Flanders' Estate, 408 N.E.2d 172 (Ind. Ct. App. 1980).

State v. Bower, 175 Ind.App. 540, 372 N.E.2d 1227 (1978).

Conway's Estate v. State, 72 Ind. App. 303, 120 N.E.2d 717 (1918).

2. Life estates

Estate of Hagerman v. Indiana Dept. of State Revenue, 771 N.E.2d 120 (Ind. Tax Ct. 2002).

Department of State Revenue, Inheritance Tax Div. v. Phelps, 697 N.E.2d 506 (Ind. Tax Ct. 1998).

Estate of Hibbs v. Indiana Dept. of State Revenue, Inheritance Tax Div., 636 N.E.2d 204 (Ind. Tax Ct. 1994).

State, Dept. of State Revenue, Inheritance Tax Division v. Union Bank & Trust Co., 177 Ind.App. 632, 380 N.E.2d 1279 (1978).

3. Power of appointment

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Morris, 486 N.E.2d 1100 (Ind. Ct. App. 1985). rehearing denied February 7, 1986, transfer denied May 12, 1986.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Hungate's Estate, 439 N.E.2d 1148 (Ind. 1982).

Matter of Martindale's Estate, 423 N.E.2d 662 (Ind. Ct. App. 1981).

State, Dept. of Revenue, Inheritance Tax Division v. Monroe County State Bank, 181 Ind.App. 176, 390 N.E.2d 1104 (1979).

4. In General

State v. George, 273 Ind. 26, 401 N.E.2d 680 (1980).

Matter of Bannon's Estate, 171 Ind.App. 610, 358 N.E.2d 215 (1976).

State v. Weinstein's Estate, 141 Ind.App. 395, 228 N.E.2d 23 (1967), rehearing denied 141 Ind.App. 399, 229 N.E.2d 741.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Parker, 924 N.E.2d 230 (Ind. Tax Ct. 2010).

State, Dept. of Revenue, Inheritance Tax Division v. Monroe County State Bank, 181 Ind.App. 176, 390 N.E.2d 1104 (1979).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Smith 460 N.E.2d 980 (Ind. Ct. App. 1984).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Hardy, 703 N.E.2d 705 (Ind. Tax Ct.).

IC 6-4.1-2-5

Joint ownership with rights of survivorship

Sec. 5. If property is held by two (2) or more individuals jointly with rights of survivorship, the exercise of the rights of the surviving joint owner or owners to the immediate ownership or possession and enjoyment of the property upon the death of one (1) of the joint owners is a transfer to which the inheritance tax applies. The value of the property so transferred equals the remainder of (1) the total value of the jointly held property, minus (2) the value of that portion of the jointly held property which the surviving joint owner or owners prove belonged to him or them.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1982, P.L.56, SEC.1.

State v. George, 273 Ind. 26, 401 N.E.2d 680 (1980).

State v. Weinstein's Estate, App.1967, 228 N.E.2d 23, 141 Ind.App. 395, rehearing denied 229 N.E.2d 741, 141 Ind.App. 399.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Smith, 460 N.E.2d 980 (Ind. Ct. App. 1984)

Department of State Revenue, Inheritance Tax Div. v. Estate of Hardy, 703 N.E.2d 705 (Ind. Tax Ct. 1998).

State, Dept. of State Revenue, Inheritance Tax Division v. Union Bank & Trust Co., 177 Ind.App. 632, 380 N.E.2d 1279 (1978).

IC 6-4.1-2-6

Transfers by deed of trust with powers reserved in transferor

Sec. 6. If a transferor transfers property by a deed of trust in such a manner that he reserves to:

- (1) himself any interest; or
- (2) himself and others powers of revocation, alteration, or amendment which if exercised would cause the property to revert to the transferor;

then the inheritance tax imposed as a result of the transferor's death applies to the transfer. The value of the property so transferred equals the value of the property subject to the powers, and in respect to which the powers remain unexercised, at the time of the transferor's death.

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

State, Indiana Dept. of State Revenue Inheritance Tax Division v. Daley, 434 N.E.2d 149 (Ind. Ct. App. 1982).

IC 6-4.1-2-7

Transfers to executor as trustee in lieu of fee

Sec. 7. If an individual transfers property to an executor or trustee in lieu of his fee, the inheritance tax applies to the transfer if the value of the property transferred exceeds the fee that would have been due if the transfer had not been made. The value of the property so transferred equals the amount of the excess.

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

IC 6-4.1-2-8

Transfers to entities

Sec. 8. If a transferor makes a taxable transfer to an entity, each individual with a beneficial (whether discretionary or not) or ownership interest in the entity is considered a transferee. Each transferee is liable for the same percentage of the taxes imposed on the taxable transfer as that individual's percentage of beneficial (whether discretionary or not) or ownership interest in the entity.

As added by P.L.149-2012, SEC.2.

IC 6-4.1-3

Chapter 3. Inheritance Tax Exemptions and Deductions

IC 6-4.1-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 6.5 and 7 of this chapter by P.L.2-1987 take effect on January 1, 1987, and apply to taxable years beginning after December 31, 1986.

As added by P.L.220-2011, SEC.151.

IC 6-4.1-3-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.5. Amended by P.L.205-2013, SEC.102.

IC 6-4.1-3-1

Exempt transfers

Sec. 1. Each transfer described in section 2055(a) of the Internal Revenue Code is exempt from the inheritance tax.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1976, P.L.19, SEC.1.

In re Albersmeier's Estate, 425 N.E.2d 245 (Ind. Ct. App. 1981).

Indiana Dept. of State Revenue, Inheritance Tax Division v. Wallace's Estate, 408 N.E.2d 150 (Ind. Ct. App. 1980).

Fort Wayne Commandery No. 4, Knights Templar v. Bracken, 82 Ind. App. 227, 145 N. E. 589 (1924).

Crittenberger v. State Savings & Trust Co., 189 Ind. 411, 127 N.E.2d 552 (1920).

In re Arp's Estate, 83 Ind. App. 371, 147 N.E. 297 (1925).

IC 6-4.1-3-1.5

Transfer to cemetery association

Sec. 1.5. (a) As used in this section, "cemetery" and "cemetery purposes" have the same meaning as the definitions of those terms contained in IC 23-14-33.

(b) The transfer of property to a cemetery association is exempt from the inheritance tax if the property is used for cemetery purposes.

As added by Acts 1980, P.L.57, SEC.1. Amended by P.L.52-1997, SEC.2.

Indiana Dept. of Revenue v. Estate of Wallace, 408 N.E.2d 150 (Ind. Ct. App. 1980).

IC 6-4.1-3-2

Repealed

(Repealed by Acts 1976, P.L.19, SEC.3.)

IC 6-4.1-3-3

Repealed

(Repealed by Acts 1976, P.L.19, SEC.3.)

IC 6-4.1-3-4

Repealed

(Repealed by Acts 1976, P.L.19, SEC.3.)

IC 6-4.1-3-5

Repealed

(Repealed by Acts 1980, P.L.57, SEC.29.)

IC 6-4.1-3-6

Life insurance proceeds

Sec. 6. The proceeds from life insurance on the life of a decedent are exempt from the inheritance tax imposed as a result of his death unless the proceeds become subject to distribution as part of his estate and subject to claims against his estate.

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

In re Cassner's Estate, 163 Ind.App. 588, 325 N.E.2d 487 (1975).

State Dept. of Revenue, Inheritance Tax Division v. Estate of Powell, 165 Ind. App. 482, 333 N.E.2d 92 (1975).

In re Osland's Estate, 164 Ind.App. 282, 328 N.E.2d 448 (1975).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Biddle, 943 N.E.2d 932 (Ind. Tax Ct. 2011).

IC 6-4.1-3-6.5

Annuity payments

Sec. 6.5. An annuity, or other payment, described in Section 2039(a) of the Internal Revenue Code is exempt from the inheritance tax imposed as a result of a decedent's death to the same extent that the annuity or other payment is excluded from the decedent's federal gross estate under Section 2039 of the Internal Revenue Code.

As added by Acts 1977(ss), P.L.6, SEC.2. Amended by Acts 1980, P.L.57, SEC.2; P.L.87-1983, SEC.2; P.L.2-1987, SEC.24.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Biddle, 943 N.E.2d 932 (Ind. Tax Ct. 2011).

IC 6-4.1-3-7

Transfers of property by decedent to surviving spouse; qualifying income interest for life; election

Sec. 7. (a) Each property interest which a decedent transfers to his surviving spouse is exempt from the inheritance tax imposed as a result of his death.

(b) For the purpose of subsection (a), "property interest which a decedent transfers to his surviving spouse" includes a property interest from which the surviving spouse is entitled for life to income or payments and which otherwise qualifies for deduction from the gross estate of the decedent under Section 2056(b)(5) or 2056(b)(6)

of the Internal Revenue Code.

(c) The personal representative of the decedent's estate or the trustee or transferee of property transferred by the decedent may, for the purpose of the exemption established by subsection (a), elect to treat property passing from the decedent in which the surviving spouse has a qualifying income interest for life as a property interest which a decedent transfers to his surviving spouse. For purposes of this section, "qualifying income interest for life" means a qualifying income interest for life (as defined in Section 2056(b)(7) of the Internal Revenue Code).

(d) The election referred to in subsection (c) shall be made in writing and shall be attached to the inheritance tax return, if one is required to be filed. The election, once made, is irrevocable.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1979, P.L.75, SEC.3; Acts 1982, P.L.55, SEC.2; P.L.2-1987, SEC.25.

Department of State Revenue, Inheritance Tax Div. v. Phelps, 697 N.E.2d 506 (Ind. Tax Ct. 1998).

In re Estate of Young, 851 N.E.2d 393 (Ind. Tax Ct. 2006).

Estate of Hagerman v. Indiana Dept. of State Revenue, 771 N.E.2d 120 (Ind. Tax Ct. 2002).

Estate of Hibbs v. Indiana Dept. of State Revenue, Inheritance Tax Div., 636 N.E.2d 204 (Ind. Tax Ct. 1994).

IC 6-4.1-3-8

Repealed

(Repealed by Acts 1979, P.L.75, SEC.15.)

IC 6-4.1-3-8.5

Repealed

(Repealed by Acts 1982, P.L.56, SEC.6.)

IC 6-4.1-3-9

Repealed

(Repealed by Acts 1982, P.L.56, SEC.7.)

IC 6-4.1-3-9.1

Repealed

(Repealed by P.L.254-1997(ss), SEC.37.)

IC 6-4.1-3-9.2

Repealed

(Repealed by Acts 1982, P.L.56, SEC.6.)

IC 6-4.1-3-9.5

Repealed

(Repealed by P.L.254-1997(ss), SEC.37.)

IC 6-4.1-3-9.7

Repealed

(Repealed by P.L.254-1997(ss), SEC.37.)

IC 6-4.1-3-10

Portion of property interests transferred to Class A transferee under taxable transfer

Sec. 10. (a) With respect to a taxable transfer or transfers resulting from the death of a decedent who dies before January 1, 2012, the first one hundred thousand dollars (\$100,000) of property interests transferred to a Class A transferee under the taxable transfer or transfers is exempt from the inheritance tax.

(b) With respect to a taxable transfer or transfers resulting from the death of a decedent who dies after December 31, 2011, the first two hundred fifty thousand dollars (\$250,000) of property interests transferred to a Class A transferee under the taxable transfer or transfers is exempt from the inheritance tax.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1979, P.L.75, SEC.6; Acts 1980, P.L.57, SEC.5; Acts 1981, P.L.90, SEC.2; P.L.87-1983, SEC.3; P.L.254-1997(ss), SEC.9; P.L.157-2012, SEC.6.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Riggs, 735 N.E.2d 340 (Ind. Tax Ct. 2000).

Estate of Odle v. Ind. Dept. of Revenue, 991 N.E.2d 631 (Ind. Tax Ct. 2013).

IC 6-4.1-3-11

Portion of property interest transferred to Class B transferee under taxable transfer

Sec. 11. The first five hundred dollars (\$500) of property interests transferred to a Class B transferee under a taxable transfer or transfers is exempt from the inheritance tax.

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

Estate of Odle v. Ind. Dept. of Revenue, 991 N.E.2d 631 (Ind. Tax Ct. 2013).

IC 6-4.1-3-12

Portion of property interest transferred to Class C transferee under taxable transfer

Sec. 12. The first one hundred dollars (\$100) of property interests transferred to a Class C transferee under a taxable transfer or transfers is exempt from the inheritance tax.

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

Estate of Odle v. Ind. Dept. of Revenue, 991 N.E.2d 631 (Ind. Tax Ct. 2013).

IC 6-4.1-3-12.5

Repealed

(Repealed by P.L.252-2001, SEC.38.)

IC 6-4.1-3-13

Items deductible from value of property interests transferred by resident decedent by will, intestate succession, or under trust

Sec. 13. (a) For purposes of this section, the term "property subject to the inheritance tax" means property transferred by a decedent under a taxable transfer.

(b) The following items, and no others, may be deducted from the value of property interests transferred by a resident decedent under his will, under the laws of intestate succession, or under a trust:

- (1) the decedent's debts which are lawful claims against his resident estate;
- (2) taxes on the decedent's real property which is located in this state and subject to the inheritance tax, if the real property taxes were a lien at the time of the decedent's death;
- (3) taxes on decedent's personal property which is located in this state and subject to the inheritance tax, if the personal property taxes are a personal obligation of the decedent or a lien against the property and if the taxes were unpaid at the time of the decedent's death;
- (4) taxes imposed on the decedent's income to date of death, if the taxes were unpaid at the time of his death;
- (5) inheritance, estate, or transfer taxes, other than federal estate taxes, imposed by other jurisdictions with respect to intangible personal property which is subject to the inheritance tax;
- (6) mortgages or special assessments which, at the time of decedent's death, were a lien on any of decedent's real property which is located in this state and subject to the inheritance tax;
- (7) decedent's funeral expenses;
- (8) amounts, not to exceed one thousand dollars (\$1,000), paid for a memorial for the decedent;
- (9) expenses incurred in administering property subject to the inheritance tax, including but not limited to reasonable attorney fees, personal representative fees, and trustee fees;
- (10) the amount of any allowance provided to the resident decedent's children by IC 29-1-4-1; and
- (11) The value of any property actually received by a resident decedent's surviving spouse in satisfaction of the allowance provided by IC 29-1-4-1, regardless of whether or not a claim for that allowance has been filed under IC 29-1-14.

(c) The amounts which are deductible under subsection (b)(6) of this section are deductible only from the value of the real property encumbered by the mortgage or special assessment.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1976, P.L.20, SEC.1; Acts 1979, P.L.75, SEC.7; Acts 1980, P.L.57, SEC.6; Acts 1981, P.L.89, SEC.2.

Matter of Estate of Saylor, 671 N.E.2d 905 (Ind. Ct. App. 1996).

Matter of Estate of Cook, 529 N.E.2d 853 (Ind. Ct. App. 1988).
In re Feusner's Estate, 411 N.E.2d 166 (Ind. Ct. App. 1980).
Indiana Dept. of State Revenue, Inheritance Tax Division v. Kitchin, 119 Ind.App. 422, 86 N.E.2d 96 (1949).
Indiana Dept. of Revenue, Inheritance Tax Division v. Security Bank & Trust Co., 181 Ind.App. 543, 393 N.E.2d 197 (Ind. Ct. App. 1979).
Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Brandewiede, 873 N.E.2d 209 (Ind. Tax Ct. 2007).
Matter of Estate of Pfeiffer, 452 N.E.2d 448 (Ind. Ct. App. 1983).
Indiana Department of State Revenue, Inheritance Tax Division v. Estate of Daugherty, 938 N.E.2d 315 (Ind. Tax Ct. 2010).
Estate of Hagerman v. Indiana Dept. of State Revenue, 771 N.E.2d 120 (Ind. Tax Ct. 2002).

IC 6-4.1-3-14

Items deductible from value of property interests transferred by resident decedent other than by will, intestate succession, or under trust

Sec. 14. (a) Except as provided in subsection (b), the following items, and no others, may be deducted from the value of property interests which are transferred by a resident decedent but which are not transferred by the decedent's will, under the laws of intestate succession, or under a trust:

- (1) Those taxes described in section 13(b)(5) of this chapter.
- (2) Liens against the property interests that are transferred.
- (3) The decedent's debts, funeral expenses, and estate administration expenses, including reasonable attorney's fees incurred in filing the inheritance tax return.

(b) In addition, any portion of the deduction provided by section 13(b)(10) of this chapter which is not needed to reduce to zero (0) the value of the property referred to in section 13 of this chapter may be deducted from the value of any other property transferred by the resident decedent to the decedent's children who are entitled to the allowance provided by IC 29-1-4-1. If more than one (1) of the decedent's children are entitled to the allowance, the deduction provided by this subsection shall be divided equally among all the decedent's children who are entitled to the allowance.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1976, P.L.20, SEC.2; Acts 1979, P.L.75, SEC.8; Acts 1980, P.L.57, SEC.7; P.L.94-1989, SEC.1.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Smith, 460 N.E.2d 1263 (Ind. Ct. App. 1984).
Indiana Dept. of Revenue, Inheritance Tax Division v. Security Bank & Trust Co., 181 Ind.App. 543, 393 N.E.2d 197 (1979).

IC 6-4.1-3-15

Items deductible from value of property interests transferred by non-resident decedent

Sec. 15. The following items, and no others, may be deducted from the value of property interests transferred by a non-resident decedent:

- (1) taxes, other than federal estate taxes;
- (2) those administration expenses described in section 13(b)(9) of this chapter;
- (3) liens against the property so transferred; and
- (4) claims against the decedent's domiciliary estate which are allowed by the court having jurisdiction over that estate and which will not be paid from that estate because it is exhausted.

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

IC 6-4.1-4

Chapter 4. Filing Requirements

IC 6-4.1-4-0.1

Application of certain amendments to chapter

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

- (1) The amendments made to sections 1, 2, and 7 of this chapter by P.L.252-2001 apply to the estate of an individual who dies after June 30, 2001.
- (2) The amendments made to section 2 of this chapter by P.L.238-2005 apply to the estate of a person who dies after June 30, 2005.

As added by P.L.220-2011, SEC.152.

IC 6-4.1-4-0.2

Applicability

Sec. 0.2. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.7. Amended by P.L.205-2013, SEC.103.

IC 6-4.1-4-0.5

Inheritance tax return not required; affidavits; liens

Sec. 0.5. (a) No inheritance tax return is required under this chapter unless the total fair market value of the property interests transferred by the decedent to a transferee under a taxable transfer or transfers exceeds the exemption provided to the transferee under IC 6-4.1-3-10 through IC 6-4.1-3-12. For purposes of this section, the fair market value of a property interest is its fair market value as of

the appraisal date prescribed by IC 6-4.1-5-1.5.

(b) An affidavit may be used to state that no inheritance tax is due after applying the exemptions under IC 6-4.1-3. The affidavit must contain the following information:

- (1) The decedent's name and date of death.
- (2) The name of each known transferee and the transferee's relationship to the decedent.
- (3) The total value of property transferred to each known transferee as a result of the decedent's death.
- (4) A statement that the total value of property transferred to each known transferee as a result of the decedent's death is less than the amount of the exemption provided to the transferee under IC 6-4.1-3.

(c) An affidavit described in subsection (b) may be:

- (1) recorded in the office of the county recorder if the affidavit concerns real property and includes the legal description of the real property in the decedent's estate; or
- (2) submitted as required by IC 6-4.1-8-4 if the affidavit concerns personal property.

If consent by the department of state revenue or the appropriate county assessor is required under IC 6-4.1-8-4 for the transfer of personal property, the affidavit must be submitted with a request for a consent to transfer under IC 6-4.1-8-4.

(d) If consent by the department of state revenue or the appropriate county assessor is required under IC 6-4.1-8-4 before personal property may be transferred and the department of state revenue or the appropriate county assessor consents to a transfer of personal property under IC 6-4.1-8-4 after considering an affidavit described in subsection (b), the full value of the personal property may be transferred.

(e) The department of state revenue or the appropriate county assessor may rely upon an affidavit described in subsection (b) to determine that a transfer will not jeopardize the collection of inheritance tax for purposes of IC 6-4.1-8-4(e).

(f) It is presumed that no inheritance tax is due and that no inheritance tax return is required if an affidavit described in subsection (b) was:

- (1) properly executed; and
- (2) recorded in the decedent's county of residence or submitted under IC 6-4.1-8-4.

(g) Except as provided in subsection (i), a lien attached under IC 6-4.1-8-1 to the real property owned by a decedent terminates when an affidavit described in subsection (b) is:

- (1) properly executed; and
- (2) recorded in the county in which the real property is located.

(h) Except as provided in subsection (i), a lien attached under IC 6-4.1-8-1 to personal property that is owned by the decedent

terminates when:

- (1) an affidavit described in subsection (b) is properly executed;
- (2) the affidavit described in subsection (b) is submitted to the department of state revenue or the appropriate county assessor in conformity with IC 6-4.1-8-4; and
- (3) the department of state revenue or the appropriate county assessor consents to the transfer.

However, subdivision (3) does not apply if consent of the department of state revenue or the appropriate county assessor is not required under IC 6-4.1-8-4 before the property may be transferred.

(i) A lien terminated under subsection (g) or (h) is reattached to the property under IC 6-4.1-8-1 if the department of state revenue obtains an order that an inheritance tax is owed.

As added by Acts 1977(ss), P.L.6, SEC.4. Amended by Acts 1979, P.L.75, SEC.9; Acts 1980, P.L.57, SEC.8; P.L.87-1983, SEC.4; P.L.252-2001, SEC.1; P.L.6-2010, SEC.1.

IC 6-4.1-4-1

Inheritance tax return; filing time; contents

Sec. 1. (a) Except as otherwise provided in section 0.5 of this chapter or in IC 6-4.1-5-8, the personal representative of a resident decedent's estate or the trustee or transferee of property transferred by the decedent shall file an inheritance tax return with the appropriate probate court within nine (9) months after the date of the decedent's death. The person filing the return shall file it under oath on the forms prescribed by the department of state revenue. The return shall:

- (1) contain a statement of all property interests transferred by the decedent under taxable transfers known to the person filing the return;
 - (2) indicate the fair market value, as of the appraisal date prescribed by IC 6-4.1-5-1.5, of each property interest included in the statement;
 - (3) contain an itemized list of all inheritance tax deductions claimed with respect to property interests included in the statement;
 - (4) contain a list which indicates the name and address of each transferee of the property interests included in the statement and which indicates the total value of the property interests transferred to each transferee; and
 - (5) contain the name and address of the attorney for the personal representative or for the person filing the return.
- (b) If the decedent died testate, the person filing the return shall attach a copy of the decedent's will to the return.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.5; Acts 1980, P.L.57, SEC.9; P.L.67-1988, SEC.1;

P.L.252-2001, SEC.2; P.L.6-2010, SEC.2.

Indiana Dept. of State Revenue v. Estate of Ogle, 923 N.E.2d 493 (Ind. Tax Ct. 2010).

Second Nat. Bank of Richmond v. State Dept. of State Revenue, Inheritance Tax Division, 174 Ind.App. 168, 366 N.E.2d 694 (1977).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Parker, 924 N.E.2d 230 (Ind. Tax Ct. 2010).

Estate of Neterer v. Indiana Dept. of Revenue, 956 N.E.2d 1214 (Ind. Tax Ct. 2011)

IC 6-4.1-4-2

Extension of filing time; subsequent extensions

Sec. 2. (a) If the Internal Revenue Service allows an extension on a federal estate tax return, the corresponding due date for the Indiana inheritance tax return is automatically extended for the same period as the federal extension.

(b) If the appropriate probate court finds that because of an unavoidable delay an inheritance tax return cannot be filed within nine (9) months after the date of decedent's death, the court may extend the period for filing the return. After the expiration of the first extension period, the court may grant a subsequent extension if the person seeking the extension files a written motion which states the reason for the delay in filing the return.

(c) For purposes of sections 3 and 6 of this chapter, an inheritance tax return is not due until the last day of any extension period or periods granted under this section.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.252-2001, SEC.3; P.L.238-2005, SEC.2.

Sibbitt v. Indiana Dept. of Revenue, 563 N.E.2d 146 (Ind. Ct. App. 1990), rehearing denied January 17, 1991, transfer denied Aug 16, 1991.

IC 6-4.1-4-3

Failure to file; court ordered appearance upon request of interested parties

Sec. 3. The appropriate probate court shall order a person who fails to file an inheritance tax return on or before the date the return is due to appear before the court to state why the return has not been filed if an interested party files a motion asking the court to take that action. In addition, the court may on its own motion order the person to enter such an appearance.

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

IC 6-4.1-4-4

Court order; appearance upon request of interested parties

Sec. 4. The appropriate probate court may order a personal representative of a resident decedent's estate to file an inheritance tax

return on or before a date fixed by the court if the personal representative appears before the court in response to an order issued by the court under section 3 of this chapter.

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

IC 6-4.1-4-5

Removal of personal representative; grounds

Sec. 5. The appropriate probate court may order the removal of the personal representative of a resident decedent's estate and appoint a successor to take the removed personal representative's place if:

(1) the personal representative fails to appear before the court in response to an order issued by it under section 3 of this chapter; or

(2) the personal representative fails to file an inheritance tax return on or before the date fixed by the court under section 4 of this chapter.

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

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Cohen's Estate, 436 N.E.2d 832 (Ind. Ct. App. 1982).

IC 6-4.1-4-6

Penalties for failure to file return; waiver

Sec. 6. (a) Except as provided in subsection (b) of this section, the appropriate probate court shall charge a person who fails to file an inheritance tax return on or before the due date a penalty in an amount which equals:

(1) fifty cents (\$0.50) per day for each day that the return is delinquent; or

(2) fifty dollars (\$50);

whichever is less. The court shall include the penalty in the inheritance tax decree which it issues with respect to the decedent's estate. The person to whom the penalty is charged shall pay it to the treasurer of the county in which the resident decedent was domiciled at the time of the resident decedent's death.

(b) The appropriate probate court may waive the penalty otherwise required under subsection (a) of this section if the court finds that the person had a justifiable excuse for not filing the return on or before the due date.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.86-1995, SEC.6.

IC 6-4.1-4-7

Nonresident decedent; inheritance tax return

Sec. 7. (a) Except as otherwise provided in section 0.5 of this chapter, the personal representative of a nonresident decedent's estate

or the trustee or transferee of property transferred by the decedent shall file an inheritance tax return with the department of state revenue within nine (9) months after the date of the decedent's death.

The person filing the return shall file it under oath on the forms prescribed by the department of state revenue. The return shall:

(1) contain a statement of all property interests transferred by the decedent under taxable transfers known to the person filing the return;

(2) indicate the fair market value, as of the appraisal date prescribed by IC 6-4.1-5-1.5, of each property interest included in the statement;

(3) contain an itemized list of all inheritance tax deductions claimed with respect to property interests included in the statement;

(4) contain a list which indicates the name and address of each transferee of the property interests included in the statement and which indicates the total value of the property interests transferred to each transferee; and

(5) contain the name and address of the attorney for the personal representative or for the person filing the return.

(b) If the decedent died testate, the person filing the return shall attach a copy of the decedent's will to the return.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.6; Acts 1980, P.L.57, SEC.10; P.L.67-1988, SEC.2; P.L.252-2001, SEC.4; P.L.6-2010, SEC.3.

IC 6-4.1-4-8

Federal estate tax return; filing with state

Sec. 8. If a federal estate tax return is filed for a decedent's estate and if a tax is imposed under this article as a result of the decedent's death, the personal representative of the decedent's estate or the trustee or transferee of property transferred by the decedent shall:

(1) concurrently with the filing of the federal estate tax return file a signed copy of that return with the department of state revenue; and

(2) file a copy of the final determination of federal estate tax, whether issued by the internal revenue service or a federal court, with the department of state revenue within thirty (30) days after it is received.

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

Matter of Adamson's Estate, 403 N.E.2d 355 (Ind. Ct. App. 1980).

IC 6-4.1-4-9

Filing fee prohibited

Sec. 9. A person may not be required to pay a fee to file an

inheritance tax return.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.11.

IC 6-4.1-5

Chapter 5. Determination of Inheritance Tax

IC 6-4.1-5-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.8. Amended by P.L.205-2013, SEC.104.

IC 6-4.1-5-1

Tax rates; transfers to Classes A, B, and C transferees

Sec. 1. (a) For purposes of this section, the net taxable value of property interests transferred by a decedent to a particular transferee equals the remainder of:

(1) the total fair market value of the property interests transferred by the decedent to the transferee under a taxable transfer or transfers; minus

(2) the total amount of exemptions and deductions provided under sections 9.1 through 15 of IC 6-4.1-3 with respect to the property interests so transferred.

(b) The inheritance tax imposed on a decedent's transfer of property interests to a particular Class A transferee is prescribed in the following table:

NET TAXABLE VALUE OF PROPERTY INTERESTS TRANSFERRED INHERITANCE TAX	
\$25,000 or less	1% of net taxable value
over \$25,000 but not over \$50,000	\$250, plus 2% of net taxable value over \$25,000
over \$50,000 but not over \$200,000	\$750, plus 3% of net taxable value over \$50,000
over \$200,000 but not over \$300,000	\$5,250, plus 4% of net taxable value over \$200,000
over \$300,000 but not over \$500,000	\$9,250, plus 5% of net taxable value over \$300,000
over \$500,000 but not	

over \$700,000 \$19,250, plus 6% of net

taxable value over \$500,000
over \$700,000 but not
over \$1,000,000 \$31,250, plus 7% of net
taxable value over \$700,000
over \$1,000,000 but not
over \$1,500,000 \$52,250, plus 8% of net
taxable value over \$1,000,000
over \$1,500,000 \$92,250, plus 10% of net
taxable value over \$1,500,000

(c) The inheritance tax imposed on a decedent's transfer of property interests to a particular Class B transferee is prescribed in the following table:

NET TAXABLE VALUE OF
PROPERTY INTERESTS
TRANSFERRED INHERITANCE TAX
\$100,000 or less 7% of net taxable value
over \$100,000 but not
over \$500,000 \$7,000, plus 10% of net
taxable value over \$100,000
over \$500,000 but not
over \$1,000,000 \$47,000, plus 12% of net
taxable value over \$500,000
over \$1,000,000 \$107,000, plus 15% of net
taxable value over
\$1,000,000

(d) The inheritance tax imposed on a decedent's transfer of property interests to a particular Class C transferee is prescribed in the following table:

NET TAXABLE VALUE OF
PROPERTY INTERESTS
TRANSFERRED INHERITANCE TAX
\$100,000 or less 10% of net taxable value
over \$100,000 but not
over \$1,000,000 \$10,000, plus 15% of net
taxable value over \$100,000
over \$1,000,000 \$145,000, plus 20% of net
taxable value over \$1,000,000

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.7; Acts 1979, P.L.75, SEC.10; Acts 1980, P.L.57, SEC.12; P.L.87-1983, SEC.5.

Indiana Department of State Revenue, Inheritance Tax Section v. Short, 126 Ind. App. 242, 131 N.E.2d 154 (1956).

Crittenberger v. State Savings & Trust Co., 189 Ind. 411, 127 N.E.2d 552 (1920).

Estate of Odle v. Ind. Dept. of Revenue, 991 N.E.2d 631 (Ind. Tax Ct. 2013).

IC 6-4.1-5-1.5

Fair market value; appraisal date

Sec. 1.5. (a) For purposes of determining the fair market value of each property interest transferred by a decedent, the appraisal date for the property interest is the date used to value the property interest for federal estate tax purposes. However, if no federal estate tax return is filed for the decedent's estate, the appraisal date for each property interest transferred by the decedent is the date of the decedent's death.

(b) The finally determined federal estate tax value of a property interest is presumed to be the fair market value of the property interest for Indiana inheritance tax purposes, unless the federal estate tax value is determined under Section 2032A of the Internal Revenue Code. However, the presumption is rebuttable. A property interest that is valued for federal estate tax purposes under Section 2032A of the Internal Revenue Code shall be valued for Indiana inheritance tax purposes at its fair market value on the appraisal date prescribed by subsection (a).

As added by Acts 1980, P.L.57, SEC.13.

Estate of Neterer v. Indiana Dept. of Revenue, 956 N.E.2d 1214 (Ind. Tax Ct. 2011).

IC 6-4.1-5-2

Referral of return to tax appraiser; duties

Sec. 2. Within ten (10) days after an inheritance tax return for a resident decedent is filed with the probate court, the court shall refer the return to the county inheritance tax appraiser. The county inheritance tax appraiser shall:

- (1) investigate the facts concerning taxable transfers made by the decedent before his death;
- (2) review the return for mistakes and omissions; and
- (3) appraise each property interest, transferred by the decedent under a taxable transfer, at its fair market value as of the appraisal date prescribed by IC 6-4.1-5-1.5.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.14.

IC 6-4.1-5-3

Notice of appraisal

Sec. 3. Before making the appraisal required under section 2(3) of this chapter, the county inheritance tax appraiser shall give notice of the date, time, and place of the appraisal, by mail, to any person designated by the probate court and each interested person who filed a request for notice and provided a mailing address to the county assessor. The county inheritance tax appraiser shall appraise the property interests at the time and place stated in the notice.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.165-2002, SEC.1.

IC 6-4.1-5-4

Subpoena; witness fees

Sec. 4. In order to make the appraisal required under section 2(3) of this chapter, the county inheritance tax appraiser may:

- (1) issue subpoenas;
- (2) compel the appearance of witnesses before him; and
- (3) examine witnesses under oath.

Each witness examined with respect to the appraisal is entitled to receive a fee in the same amount paid to a witness subpoenaed to appear before a court of record. The county treasurer shall, from county funds not otherwise appropriated, pay the witness fee which is provided for under this section and which is allowed by the probate court under section 10 of this chapter.

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

IC 6-4.1-5-5

Refiling return following appraisal; appraiser's review

Sec. 5. After an inheritance tax return filed for a resident decedent is examined by the county inheritance tax appraiser and the probate court, the court shall order the person responsible for filing the return to complete the return and refile it if the court finds that the return is incomplete. When the return is refiled, the court shall refer the refiled return to the county inheritance tax appraiser for review by him.

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

IC 6-4.1-5-6

Appraisal report; preparation; filing

Sec. 6. After completing the duties assigned to him under section 2 of this chapter, the county inheritance tax appraiser shall prepare an appraisal report. The appraisal report shall:

- (1) contain a list of the property interests described in section 2(3) of this chapter; and
- (2) indicate the fair market value of the property interests.

The county inheritance tax appraiser shall file one (1) copy of the report with the probate court, and he shall file another copy of the report with the department of state revenue. The appraiser shall attach the depositions of any witnesses examined with respect to the appraisal and any other information which the court may require to the appraisal report which he files with the court.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.15.

IC 6-4.1-5-7

Petition for order of no inheritance tax due

Sec. 7. If the personal representative of a resident decedent's estate or the trustee or transferee of property transferred by the decedent believes that no inheritance tax is imposed under this article as a result of the decedent's death, he may file a verified petition with the appropriate probate court requesting that the court enter an order stating that no inheritance tax is due. The petitioner must include in the petition a statement of the value of the property interests transferred by the decedent.

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

IC 6-4.1-5-8

Hearing upon petition for order of no inheritance tax due; rehearing

Sec. 8. If a petition is filed under section 7 of this chapter, the probate court may hold a hearing on the petition. If the court elects to hold a hearing, it shall give notice of the hearing in the same manner prescribed for giving the notice required under section 9 of this chapter. After the probate court completes its examination of the petition, the court may enter an order stating that no inheritance tax is due as a result of the decedent's death. If the court enters such an order, the petitioner is not required to file an inheritance tax return. However, a person may petition the appropriate probate court under IC 6-4.1-7 for a rehearing on the court's order or for a reappraisal of the property interests transferred by the decedent.

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

IC 6-4.1-5-9

Hearing on tax appraiser's report; notice

Sec. 9. When the county inheritance tax appraiser files an appraisal report with the probate court, the court shall give twenty (20) days notice by mail of the date, time, and place of a hearing on the report to each interested person who filed a request for notice and provided a mailing address under section 3 of this chapter.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.165-2002, SEC.2.

IC 6-4.1-5-10

Orders of inheritance tax and witness fees due; form

Sec. 10. (a) After the hearing required by section 9 of this chapter, the probate court shall determine the fair market value of the property interests transferred by the resident decedent and the amount of inheritance tax due as a result of his death. The court shall then enter an order stating the amount of inheritance tax due and the fees due witnesses under section 4 of this chapter. If the court finds

that no inheritance tax is due, the court shall include a statement to that effect in the order.

(b) The court shall prepare the order required by this section on the form prescribed by the department of state revenue. The court shall include in the order a description of all Indiana real property owned by the resident decedent at the time of his death. The probate court shall spread the order of record in the office of the clerk of the circuit court. The clerk shall maintain the orders in a looseleaf ledger.

(c) The order described in this section is confidential.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.16; P.L.176-2003, SEC.1.

IC 6-4.1-5-11

Court determination of inheritance tax due; copies to interested persons

Sec. 11. The court shall immediately mail a copy of its determination of the fair market value of the property interests transferred by a resident decedent and the inheritance tax due as a result of the person's death to each interested person who filed a request for notice and provided a mailing address under section 3 of this chapter, the department of state revenue, and the county treasurer.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.165-2002, SEC.3.

In re Estate of Pearl Wilson v. Indiana Dept. of State Revenue, 822 N.E.2d 292 (Ind. Tax Ct. 2005).

Indiana Dept. of Revenue Inheritance Tax Division v. Callaway's Estate, 232 Ind. 1, 110 N.E.2d 903 (1953).

IC 6-4.1-5-12

Repealed

(Repealed by P.L.305-1987, SEC.38.)

IC 6-4.1-5-13

Appointment of temporary guardian

Sec. 13. A probate court shall appoint a temporary guardian to represent an individual if, at any time during the proceedings to determine the inheritance tax imposed as a result of a resident decedent's death, the court finds that the individual:

(1) is under eighteen (18) years of age or incapacitated (as defined in IC 29-3-1-7.5); and

(2) has an interest in the resident decedent's estate which is adverse to an interest which another person has in the estate.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.33-1989,

SEC.5.

IC 6-4.1-5-14

Appraisal and determination of tax due on nonresident decedent's estate; determination without court intervention

Sec. 14. The department of state revenue shall determine the inheritance tax imposed as a result of a non-resident decedent's death. The department may appraise the property transferred by the decedent and determine the inheritance tax due without the intervention of a court.

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

IC 6-4.1-5-15

Orders with respect to nonresident decedent's estate; filing fees

Sec. 15. (a) The department of state revenue shall, with respect to a nonresident decedent's estate, enter an order which:

(1) states the fair market value of all property interests transferred by the decedent under taxable transfers;

(2) describes all Indiana real property so transferred by the decedent; and

(3) states the inheritance tax imposed as a result of the decedent's death.

(b) The clerk of the circuit court of each county in which real property described in the order is located shall spread a copy of the order of record.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.17; P.L.171-1984, SEC.5; P.L.192-1986, SEC.5; P.L.305-1987, SEC.8.

IC 6-4.1-5-16

Notice of taxes due upon nonresident decedent's estate

Sec. 16. The department of state revenue shall, by mail, give notice of the inheritance tax due as a result of a nonresident decedent's death to the personal representative of the decedent's estate or the trustee of property transferred by the decedent.

However, if there is no personal representative or trustee, the department shall give the notice to each person liable for payment of the tax. Unless an appeal is initiated under IC 6-4.1-7-5 within ninety (90) days after the notice is given, the inheritance tax stated by the department in the notice is final.

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

IC 6-4.1-5-17

Transfers by will; property not specifically bequeathed or devised

Sec. 17. When property is transferred by will and is not specifically bequeathed or devised, the property is, for purposes of

this article, to be treated as if it were transferred proportionately to and divided pro rata among all the general legatees and devisees named in the transferor's will, including all transfers under a residuary clause of the will.

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

IC 6-4.1-6

Chapter 6. Special Procedures for Appraising and Taxing Certain Property Interests

IC 6-4.1-6-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.10. Amended by P.L.205-2013, SEC.106.

IC 6-4.1-6-1

Mortality standards and actuarial tables; valuation of future interests

Sec. 1. (a) For purposes of this article, county inheritance tax appraisers and the department of state revenue shall, if possible, appraise each future, contingent, defeasible, or life interest in property and each annuity by using the rules, methods, standards of mortality, and actuarial tables used by the Internal Revenue Service on October 1, 1988, for federal estate tax purposes.

(b) Except as otherwise provided in this chapter, the value of a future interest in specific property equals the remainder of:

- (1) the total value of the property; minus
- (2) the value of all other interests in the property.

(c) Unless otherwise provided by the transferor, the inheritance tax imposed on the transfer of each of the interests is payable from the property in which the interests exist.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.95-1989, SEC.1.

Department of State Revenue, Inheritance Tax Div. v. Phelps, 697 N.E.2d 506 (Ind. Tax Ct. 1998).

Estate of Hibbs v. Indiana Dept. of State Revenue, Inheritance Tax Div., 636 N.E.2d 204 (Ind. Tax Ct. 1994).

Matter of Waltz' Estate, 408 N.E.2d 558 (Ind. Ct. App. 1980).

Matter of Newell's Estate, 408 N.E.2d 552 (Ind. Ct. App. 1980).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Boehle, 932 N.E.2d 260 (Ind. Tax Ct. 2010).

IC 6-4.1-6-2

Property interests that may be divested

Sec. 2. County inheritance tax appraisers and the department of state revenue shall appraise a property interest which may be divested because of an act or omission of the transferee as if there were no possibility of divestment.

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

IC 6-4.1-6-3

Agreements with department for computing taxes

Sec. 3. (a) The department of state revenue and a taxpayer may enter into an agreement under which the department will compute the inheritance tax due with respect to a taxable transfer if:

(1) it is impossible to compute the present value of the property interest transferred; or

(2) the tax imposed on the transfer cannot be computed because a contingency makes it impossible to determine who will take the property.

The personal representative of an estate or the trustee of a trust may, without court authorization, enter into such an agreement with the department on behalf of the estate or trust.

(b) When the department of state revenue enters into an agreement with a taxpayer under this section, the tax computed by the department is payable from the property interest transferred.

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

IC 6-4.1-6-4

Manner of property distribution; circumstances where court determination required; finality

Sec. 4. For purposes of determining the inheritance tax imposed on a decedent's transfer of specific property, the appropriate probate court shall, so far as possible, determine the manner in which the property will probably be distributed if:

(1) a contingency makes it impossible to determine each transferee's exact interest in the property; and

(2) the department of state revenue and the taxpayer fail, within a reasonable time, to enter into an agreement under section 3 of this chapter.

Unless the court's determination is appealed, it is final and binding on all parties.

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

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Boehle, 932 N.E.2d 260 (Ind. Tax Ct. 2010).

IC 6-4.1-6-5

Appraisal of limited, contingent, dependent, or determinable interests

Sec. 5. If a probate court files an application with the department of state revenue asking the department to appraise a property interest which is limited, contingent, dependent, or determinable upon a life in being, including but not limited to a life or remainder interest, the department shall, if possible, appraise the property interest. The department shall base its appraisal on the facts stated by the court in the application, and the department shall certify its appraisal in duplicate to the court. The department's certification is competent evidence that the appraisal is correct.

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

IC 6-4.1-6-6

Contingent or defeasible future interests; appraisal

Sec. 6. (a) If proceedings have not been instituted under this chapter to determine the inheritance tax imposed on the decedent's transfer of a contingent or defeasible future interest in property or if the tax imposed on such a transfer is postponed under subsection (b) of this section, the county inheritance tax appraiser or the department of state revenue shall, notwithstanding the provisions of IC 6-4.1-5, appraise the property interest at its fair market value when the transferee of the interest obtains the beneficial enjoyment or possession of the property.

(b) The inheritance tax imposed on the decedent's transfer of a contingent or defeasible interest in property accrues and is due when the transferee of the interest obtains the beneficial enjoyment or possession of the property if the fair market value of the property interest as of the appraisal date prescribed by IC 6-4.1-5-1.5 cannot otherwise be ascertained under this chapter.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.18.

Estate of McNicholas v. State, 580 N.E.2d 978(Ind. Ct. App. 1991), transfer denied April 16, 1992.

IC 6-4.1-7

Chapter 7. Review of Inheritance Tax Appraisals and Tax Determinations

IC 6-4.1-7-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 1 and 6 of this chapter by P.L.48-1992 do not apply to a petition for rehearing or redetermination that is based on a determination or final determination made before July 1, 1992.

As added by P.L.220-2011, SEC.153.

IC 6-4.1-7-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.11. Amended by P.L.205-2013, SEC.107.

IC 6-4.1-7-1

Rehearing

Sec. 1. A person who is dissatisfied with an inheritance tax determination made by a probate court with respect to a resident decedent's estate may obtain a rehearing on the determination. To obtain the rehearing, the person must file a petition for rehearing with the probate court within one hundred twenty (120) days after the determination is made. In the petition, the person must state the grounds for the rehearing. The probate court shall base the rehearing on evidence presented at the original hearing plus any additional evidence which the court elects to hear.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.48-1992, SEC.1.

In re Estate of Pearl Wilson v. Indiana Dept. of State Revenue, 822 N.E.2d 292 (Ind. Tax Ct. 2005).

Indiana Dept. of Revenue Inheritance Tax Division v. Callaway's Estate, 232 Ind. 1, 110 N.E.2d 903(1953).

Matter of Waltz' Estate, 408 N.E.2d 558 (Ind. Ct. App. 1980).

Indiana Dept. of State Revenue, Inheritance Tax Division v. Bandelier, 122 Ind.App. 200, 104 N.E.2d 133(1952).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Broyles, 457 N.E.2d 250 (Ind. Tax Ct. 1983).

In re Estate of Dunnick, 855 N.E.2d 1087(Ind. Tax Ct. 2006).

Sibbitt v. Indiana Dept. of Revenue, 563 N.E.2d 146 (Ind. Ct. App. 1990), rehearing denied January 17, 1991, transfer denied August 16, 1991.

Indiana Dept. of Revenue, Inheritance Tax Division v. Binhack's Estate, 426 N.E.2d 714 (Ind. Ct. App. 1981).

Matter of Compton's Estate, 406 N.E.2d 365 (Ind. Ct. App. 1980).

In re Hogg's Estate, 150 Ind.App. 650, 276 N.E.2d 898 (1971).

Indiana Department of State Revenue, Inheritance Tax Division v. Estate of Daugherty, 938 N.E.2d 315 (Ind. Tax Ct. 2010).

Estate of Neterer v. Indiana Dept. of Revenue, 956 N.E.2d 1214 (Ind. Tax Ct. 2011).

IC 6-4.1-7-2

Reappraisal; petition; time of filing

Sec. 2. A person who is dissatisfied with an appraisal approved by a probate court with respect to a resident decedent's estate may obtain a reappraisal of the property interest involved. To obtain the reappraisal, the person must file a petition for reappraisal with the probate court within one (1) year after the court enters an order determining the inheritance tax due as a result of the decedent's death. However, if the original appraisal is fraudulently or erroneously made, the person may file the reappraisal petition within two (2) years after the court enters the order.

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

Indiana Dept. of Revenue Inheritance Tax Division v. Callaway's Estate, 232 Ind. 1, 110 N.E.2d 903(1953).

Matter of Waltz' Estate, 408 N.E.2d 558 (Ind. Ct. App. 1980).

Sibbitt v. Indiana Dept. of Revenue, 563 N.E.2d 146 (Ind. Ct. App. 1990), rehearing denied January 17, 1991, transfer denied August 16, 1991.

In re Hogg's Estate, 150 Ind.App. 650, 276 N.E.2d 898 (1971).

Indiana Dept. of Revenue, Inheritance Tax Division v. Flanders' Estate, 408 N.E.2d 172 (Ind. Ct. App. 1980).

Estate of Neterer v. Indiana Dept. of Revenue, 956 N.E.2d 1214 (Ind. Tax Ct. 2011).

IC 6-4.1-7-3

Appointment of reappraiser; powers; compensation

Sec. 3. When a reappraisal petition is filed under section 2 of this chapter, the probate court may appoint a competent person to reappraise the property interests transferred by the resident decedent under taxable transfers. An appraiser appointed by the court under this section has the same powers and duties, including the duty to give notice of the appraisal and the duty to make an appraisal report to the court, as the county inheritance tax appraiser. The appointed appraiser is entitled to receive an amount fixed by the court and approved by the department of revenue as compensation for his services. After the probate court certifies to the county treasurer the amount of compensation due the appointed appraiser, the county treasurer shall pay the appraiser from county funds not otherwise appropriated.

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

IC 6-4.1-7-4

Report or reappraisal; redetermination of taxes; filing of redetermination

Sec. 4. (a) After the appraiser, if any, appointed under section 3 of this chapter files his appraisal report, the probate court shall redetermine the inheritance tax due with respect to the property interests transferred by the resident decedent. In making the redetermination, the court shall follow the same procedures it is

required to follow under IC 6-4.1-5-9, IC 6-4.1-5-10, and IC 6-4.1-5-11 when making an original inheritance tax determination.

(b) The probate court's redetermination of the inheritance tax due supersedes the court's original determination. The court shall file a copy of the redetermination with the clerk of the court.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.1-1991, SEC.54.

IC 6-4.1-7-5

Non-resident decedent's property; appeal of department determination; procedures

Sec. 5. (a) A person who is dissatisfied with an inheritance tax determination or an appraisal made by the department of state revenue with respect to property interests transferred by a non-resident decedent may appeal the department's decision to:

- (1) the probate court of the county, if any, in which administration of the decedent's estate is pending; or
- (2) the probate court of any county in which any of the decedent's property was located at the time of his death, if no administration of the decedent's estate is pending in Indiana.

(b) To initiate the appeal, the person must:

- (1) file a complaint within ninety (90) days after the date that the department mails the notice required by IC 6-4.1-5-16; and
- (2) pay, or give security to pay, the court cost resulting from the appeal and the inheritance tax to be fixed by the court.

(c) When an appeal is initiated under this section, the court may decide all questions concerning the fair market value of property interests transferred by the decedent or concerning the inheritance tax due as a result of the decedent's death.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.19.

State v. Davies, 177 Ind.App. 288, 379 N.E.2d 501(1978).

IC 6-4.1-7-6

Probate court determination of tax due as provisional estimate; redetermination resulting from federal estate tax valuation

Sec. 6. (a) The department of state revenue may accept a probate court's determination of the inheritance tax due as a result of a decedent's death as a provisional estimate of the inheritance tax imposed.

(b) If the final determination of federal estate tax shows a change in the fair market value of the assets of a decedent's estate or a change in deductions, the department of state revenue may petition or cause other persons to petition the probate court which has jurisdiction for a redetermination of the inheritance tax imposed as

a result of the decedent's death. The petition must be filed within sixty (60) days after a copy of the final determination of federal estate tax is filed with the department as required by IC 6-4.1-4-8. An inheritance tax redetermination which is made under this section is limited to modifications based on either a change in the fair market value of the assets of the decedent's estate or a change in deductions.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1979, P.L.75, SEC.11; P.L.48-1992, SEC.2.

In re Coffman's Estate, 181 Ind.App. 348, 391 N.E.2d 861(1979).

In re Estate of Pearl Wilson v. Indiana Dept. of State Revenue, 822 N.E.2d 292 (Ind. Tax Ct. 2005).

Sibbitt v. Indiana Dept. of Revenue, 563 N.E.2d 146 (Ind. Ct. App. 1990), rehearing denied January 17, 1991, transfer denied August 16, 1991.

Matter of Compton's Estate, 406 N.E.2d 365 (Ind. Ct. App. 1980).

Matter of Adamson's Estate, 403 N.E.2d 355 (Ind. Ct. App. 1980).

IC 6-4.1-7-7

Redetermination of inheritance tax; appeal

Sec. 7. A probate court's redetermination of inheritance tax 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.1.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Riggs, 735 N.E.2d 340 (Ind. Tax Ct. 2000).

In re Estate of Quackenbush, 926 N.E.2d 127 (Ind. Tax Ct. 2010).

In re Estate of Pearl Wilson v. Indiana Dept. of State Revenue, 822 N.E.2d 292 (Ind. Tax Ct. 2005).

Department of State Revenue, Inheritance Tax Div. v. Estate of Hardy, 703 N.E.2d 705 (Ind. Tax Ct. 1998).

Department of State Revenue, Inheritance Tax Div. v. Phelps, 697 N.E.2d 506 (Ind. Ct. App. 1998).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Baldwin, 652 N.E.2d 124(Ind. Tax Ct. 1995).

IC 6-4.1-8

Chapter 8. Inheritance Tax Lien and Limitations on the Transfer of Decedent's Property

IC 6-4.1-8-0.1

Application of certain amendments to chapter

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

(1) The addition of section 4.6 of this chapter by P.L.26-1985

applies to property belonging to decedents who die after June 30, 1986.

(2) The amendments made to section 5 of this chapter by P.L.6-1999 apply to the estate of an individual who dies after June 30, 1999.

As added by P.L.220-2011, SEC.154.

IC 6-4.1-8-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.12. Amended by P.L.205-2013, SEC.108.

IC 6-4.1-8-1

Attachment and termination of lien; persons liable for inheritance tax

Sec. 1. The inheritance tax imposed as a result of a decedent's death is a lien on the property transferred by the decedent. Except as otherwise provided in IC 6-4.1-6-6(b), the inheritance tax accrues and the lien attaches at the time of the decedent's death. The lien terminates when the inheritance tax is paid, when IC 6-4.1-4-0.5 provides for the termination of the lien, or ten (10) years after the date of the decedent's death, whichever occurs first. In addition to the lien, the transferee of the property and any personal representative or trustee who has possession of or control over the property are personally liable for the inheritance tax.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.252-2001, SEC.5; P.L.182-2009(ss), SEC.231.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Cohen's Estate, 436 N.E.2d 832 (Ind. Ct. App. 1982).

Estate of McNicholas v. State, 580 N.E.2d 978 (Ind. Ct. App. 1991), transfer denied April 16, 1992.

Indiana Dept. of State Revenue, Inheritance Tax Division v. Mertz, 119 Ind.App. 601, 88 N.E.2d 917 (1949).

State, Indiana Dept. of State Revenue, Inheritance Tax Division v. Lees, 418 N.E.2d 226 (1980).

In re Batt's Estate, 220 Ind. 193, 41 N.E.2d 365 (1942).

Nation v. Green, 188 Ind. 697, 123 N.E. 163 (1919).

Matter of Estate of Saylor, 671 N.E.2d 905 (Ind. Ct. App. 1996).

IC 6-4.1-8-2

Transfers prohibited until tax paid; limited transfers

Sec. 2. (a) The personal representative of a decedent's estate or the trustee of property transferred by the decedent may not transfer or

deliver property to a transferee unless the inheritance tax imposed with respect to the transfer has been paid.

(b) If money is transferred by the decedent to a transferee for a limited period of time, the personal representative or trustee shall retain the total inheritance tax imposed on all the interests in the money.

(c) If property other than money is transferred by the decedent to a transferee for a limited period of time, the transferees of the interests in the property shall pay to the personal representative or trustee the inheritance tax imposed on the interests. The personal representative or trustee shall apply to the appropriate probate court for a determination of the amount which each transferee is required to pay under this subsection.

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

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Cohen's Estate, 436 N.E.2d 832 (Ind. Ct. App. 1982).

Nation v. Green, 188 Ind. 697, 123 N.E. 163 (1919).

IC 6-4.1-8-3

Sale of property to pay decedent's debts

Sec. 3. In order to pay the inheritance tax imposed as a result of a decedent's death, the personal representative of the decedent's estate or the trustee of property transferred by the decedent may sell property transferred by the decedent. The personal representative or trustee may sell the property in the same manner that he is authorized to sell property to pay the decedent's debts.

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

IC 6-4.1-8-4

Personal property; consent to transfer

Sec. 4. (a) A person who has possession of or control over personal property held jointly by a resident decedent and another person may not transfer the property to the surviving joint tenant, unless:

(1) the surviving joint tenant is the decedent's surviving spouse;
or

(2) the property is money held in a joint checking account;
without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

(b) Except as provided in subsection (c), a person who has possession of or control over personal property held in a trust that is subject to the Indiana inheritance tax or estate tax (before its repeal) at the time of a resident decedent's death may not transfer the property to a beneficiary or any other person, unless the beneficiary

or other person is the decedent's surviving spouse, without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

(c) A person who has possession of or control over personal property held in trust may transfer the property without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death under the following conditions:

(1) The transferee is domiciled in Indiana.

(2) The transferee completes a sworn affidavit on a form prescribed by the department of state revenue that states:

(A) the transfer of the personal property is not subject to Indiana inheritance tax or estate tax (before its repeal); and

(B) the reasons the transfer is not subject to tax.

(3) A copy of the affidavit required under subdivision (2) is immediately filed with the department of state revenue.

(d) A person who has possession of or control over a resident decedent's personal property (except proceeds payable under a life insurance policy) may not transfer the property to any other person, unless:

(1) the other person is the decedent's surviving spouse; or

(2) the property is money held in a checking account;

without the written consent of the department of state revenue or the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

(e) The department of state revenue or the appropriate county assessor may consent to a transfer if the department or the county assessor believes that the transfer will not jeopardize the collection of inheritance tax.

(f) The department of state revenue shall send a copy of any consent to transfer that it issues under this section to the county assessor of the county in which the resident decedent was domiciled at the time of the decedent's death.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.8; Acts 1980, P.L.57, SEC.20; Acts 1981, P.L.91, SEC.1; P.L.59-1996, SEC.1; P.L.205-2013, SEC.109.

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Parker, 485 N.E.2d 1387 (Ind. Ct. App. 1985).

IC 6-4.1-8-4.5

Repealed

(Repealed by Acts 1982, P.L.57, SEC.1.)

IC 6-4.1-8-4.6

Checking account; notice of transfer of funds to person other than surviving spouse

Sec. 4.6. A person who has possession of or control over money held in a checking account in which a resident decedent had a legal interest shall notify the department or the county assessor of the county in which the resident decedent was domiciled at the time of death, when money is transferred from the account to a person, other than the resident decedent's surviving spouse.

As added by P.L.26-1985, SEC.11.

IC 6-4.1-8-5

Life insurance proceeds; damages payable in a cause of action maintained by a personal representative

Sec. 5. (a) Within ten (10) days after life insurance proceeds are paid to a resident decedent's estate, the life insurance company shall give notice of the payment to the department of state revenue.

(b) Not later than ten (10) days after damages payable under a cause of action maintained by a personal representative under IC 34-9-3-4 are paid to a resident decedent's estate, the person making the payment shall give notice of the payment to the department of state revenue.

(c) The department of state revenue shall send a copy of any notice which it receives under subsection (a) or (b) to the county assessor of the county in which the resident decedent was domiciled at the time of the resident decedent's death.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.9; P.L.157-1992, SEC.1; P.L.6-1999, SEC.1; P.L.143-2009, SEC.2.

IC 6-4.1-8-6

Repealed

(Repealed by P.L.6-1999, SEC.2.)

IC 6-4.1-8-7

Violations of IC 6-4.1-8-4 or IC 6-4.1-8-5; penalties

Sec. 7. If a person violates a provision of section 4 or 5 of this chapter, he is liable for the taxes imposed under this article as a result of the resident decedent's death and is subject to an additional penalty not to exceed one thousand dollars (\$1,000). The department of state revenue shall initiate an action in the name of this state to collect the taxes and the penalty which the person is liable for under this section.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.22; P.L.87-1983, SEC.6.

IC 6-4.1-8-8

Repealed

(Repealed by P.L.6-1999, SEC.2.)

IC 6-4.1-9

Chapter 9. General Inheritance Tax Collection Provisions

IC 6-4.1-9-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 1 and 2 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.155.

IC 6-4.1-9-0.5

Applicability

Sec. 0.5. This chapter does not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.13. Amended by P.L.205-2013, SEC.110.

IC 6-4.1-9-1

Due date for taxes; interest on delinquent portion; unavoidable delays

Sec. 1. (a) Except as otherwise provided in IC 6-4.1-6-6(b), the inheritance tax imposed as a result of a decedent's death is due twelve (12) months after the person's date of death. If a person liable for payment of inheritance tax does not pay the tax on or before the due date, the person shall, except as provided in subsection (b) of this section, pay interest on the delinquent portion of the tax at the rate of ten percent (10%) per year from the date of the decedent's death to the date payment is made.

(b) If an unavoidable delay, such as necessary litigation, prevents a determination of the amount of inheritance tax due, the appropriate probate court, in the case of a resident decedent, or the department of state revenue, in the case of a non-resident decedent, may reduce the rate of interest imposed under this section, for the time period beginning on the date of the decedent's death and ending when the cause of delay is removed, to six percent (6%) per year.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.252-2001, SEC.6.

Nell v. Tracy, 459 N.E.2d 432 (Ind. Ct. App. 1984).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Rogers, 459 N.E.2d 69 (Ind. Ct. App. 1984).

Indiana Dept. of State Revenue, Inheritance Tax Div. v. Estate of Broyles, 457 N.E.2d 250 (Ind. Ct. App. 1983).

IC 6-4.1-9-1.5

Due date for taxes when petition for redetermination of inheritance taxes filed

Sec. 1.5. If inheritance tax is imposed because a petition is filed under IC 6-4.1-7-6, the inheritance tax so imposed is, notwithstanding section 1 of this chapter, not due until thirty (30) days after notice of the final determination of federal estate tax is received by a person liable for paying the inheritance tax. If any inheritance tax so imposed is not paid on or before the due date, the person liable for paying the tax shall pay interest on the delinquent tax at the rate of six percent (6%) per year from the due date until the tax is paid.

As added by Acts 1976, P.L.19, SEC.2.

IC 6-4.1-9-2

Reduction of taxes for payment within nine months after death

Sec. 2. If the inheritance tax imposed as a result of a decedent's death is paid within nine (9) months after the person's date of death, the person making the payment is entitled to a five percent (5%) reduction in the inheritance tax due. When payment is so made, the person collecting the tax shall grant the five percent (5%) reduction to the payor.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.252-2001, SEC.7.

Nell v. Tracy, 459 N.E.2d 432 (Ind. Ct. App. 1984).

IC 6-4.1-9-3

Inheritance tax due as result of non-resident decedent's death; book showing tax due

Sec. 3. The department of state revenue shall maintain a book which indicates the amount of inheritance tax due as a result of a non-resident decedent's death. When the department gives an inheritance tax notice required by IC 6-4.1-5-16, the department shall concurrently enter in the book the amount of inheritance tax stated in the notice. The book required by this section is a public record.

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

IC 6-4.1-9-4

Tax payments resulting from non-resident decedent's death; monthly reports

Sec. 4. A person who is liable for inheritance tax imposed as a result of a non-resident decedent's death shall pay the tax to the department of state revenue. The department shall collect the tax and shall issue a receipt to the person who pays it. On the first Monday of each month, the department shall report and remit to the state treasurer the inheritance tax collected by it during the preceding

month under this section. The report must indicate the estates for which the inheritance taxes were paid.

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

IC 6-4.1-9-5

Collection and payment of taxes; receipts

Sec. 5. (a) A person who is liable for inheritance tax imposed as a result of a resident decedent's death shall pay the tax to the treasurer of the county in which the resident decedent was domiciled at the time of the resident decedent's death. If such a person believes that more inheritance tax is due as a result of the resident decedent's death than the amount of tax determined by the court under IC 6-4.1-5-10, the person may, without obtaining another court determination, pay the additional tax and any interest due on the additional tax to the county treasurer.

(b) The county treasurer shall collect the tax, shall issue a receipt for the tax payment in duplicate, and shall send one (1) copy of the receipt to the department of state revenue. The department shall countersign the receipt, shall affix its seal to the receipt, and shall return the signed and sealed receipt to the payor. The department shall also charge the county treasurer with the amount of inheritance tax collected by him.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1979, P.L.75, SEC.12; Acts 1980, P.L.57, SEC.23; P.L.86-1995, SEC.7.

IC 6-4.1-9-6

Apportionment of receipts between county and state; transfer to county and state

Sec. 6. (a) With respect to the inheritance tax imposed as a result of a resident decedent's death, the county in which the tax is collected shall receive eight percent (8%) of the inheritance tax paid as a result of the decedent's death. On the first day of January, April, July, and October of each year, the county treasurer shall, except as provided in subsection (b), transfer to the county general fund the amount due the county under this section. This state shall receive the remaining ninety-two percent (92%) of the inheritance taxes, all the interest charges collected by the county treasurer under section 1 or 1.5 of this chapter, and all the penalties collected by the county treasurer under IC 6-4.1-4-6.

(b) In a county having a consolidated city, the amount due the county under this section shall be transferred to the general fund of the consolidated city.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.24; Acts 1981, P.L.11, SEC.33; P.L.86-1995, SEC.8.

IC 6-4.1-9-7

County treasurer's quarterly report of collections; warrants

Sec. 7. (a) On the first day of January, April, July, and October of each year, each county treasurer shall, under oath, send a written inheritance tax report to the department of state revenue. Each report shall state the amount of inheritance taxes collected by the county treasurer during the preceding three (3) months and shall indicate the estates for which the taxes were paid, who paid the taxes, and when the taxes were paid. The county treasurer shall prepare each report on the form prescribed by the state board of accounts.

(b) On the first day of January, April, July, and October of each year, each county auditor shall issue a warrant to the state treasurer for the amount of inheritance taxes, interest charges, and penalties which the state is to receive under section 6 of this chapter. The county treasurer shall stamp and countersign the warrant. The county treasurer shall send the warrant to the department of state revenue not more than thirty (30) days after the county treasurer is required to send the related inheritance tax report for the preceding three (3) months under subsection (a).

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.30-1994, SEC.7.

IC 6-4.1-9-8

Disposition of warrant from county; quietus

Sec. 8. (a) The department of state revenue shall receipt and account for each warrant which it receives under section 7(b) of this chapter. The department shall then forward the warrant to the state treasurer. The state treasurer shall deposit the warrants in a special account within the state general fund to be known as the Inheritance Tax Account.

(b) At the end of each month, the state auditor shall issue a quietus to the department of state revenue for the money collected by the department under section 7(b) of this chapter. The state auditor shall issue the quietus under the same terms and conditions established for issuing a quietus to similar state agencies.

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

IC 6-4.1-9-9

Audit of quarterly reports; report and disposition of shortages and excessive payments

Sec. 9. The department of state revenue shall audit the quarterly inheritance tax reports required by section 7 of this chapter. The department shall report any shortage which it discovers to the appropriate county treasurer and county auditor. If the department notifies them of a shortage, the county treasurer and county auditor shall promptly issue a warrant to the state treasurer for the balance due the state. If the department, through its audit, discovers that an

excessive payment has been made, the amount of the excess shall be refunded in the same manner that refunds are made under IC 6-4.1-10.

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

IC 6-4.1-9-10

Repealed

(Repealed by P.L.30-1994, SEC.8.)

IC 6-4.1-9-11

Action for failure to pay inheritance tax; payment of tax after prosecution

Sec. 11. (a) If the department of state revenue believes that a person has failed to pay inheritance tax for which the person is liable under a court order, the department may file in the appropriate probate court an action in the name of the state to enforce payment of the tax. This action must be commenced within ten (10) years after the date of the order imposing the tax unless the court has not complied with IC 6-4.1-5-11. Every person who is liable for the inheritance tax is liable to the department of state revenue for payment of the tax. The amounts collected under this section shall be distributed under section 6 of this chapter.

(b) When an action has been successfully prosecuted under this section, the person who is liable for the inheritance tax due from any property which is subject to the inheritance tax shall then pay the amount due from the person to the department of state revenue.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.26-1985, SEC.12; P.L.60-1996, SEC.1.

IC 6-4.1-9-12

Appointment of resident or special administrator for non-resident decedent's estate

Sec. 12. The Probate Court of Marion County may appoint a resident or special administrator for a non-resident decedent's estate if the department of state revenue shows:

(1) that the department has reason to believe that a property interest transferred by the decedent under a taxable transfer has not been appraised for inheritance tax purposes in the manner required by this article and that the property involved is located in this state; or

(2) that the inheritance tax imposed as a result of the decedent's death, as determined by the department, has not been paid and it has been at least two (2) years since the decedent died.

A resident or special administrator appointed by the court under this section has the same powers and duties as a general administrator.

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

IC 6-4.1-9-13

Repealed

(Repealed by Acts 1979, P.L.75, SEC.15.)

IC 6-4.1-10

Chapter 10. Refund of Inheritance Tax Erroneously or Illegally Collected

IC 6-4.1-10-1

Refund for illegally or erroneously collected tax; time for filing

Sec. 1. (a) A person may file with the department of state revenue a claim for the refund of inheritance tax or Indiana estate tax (paid before its repeal) which has been erroneously or illegally collected. Except as provided in section 2 of this chapter, the person must file the claim within:

- (1) three (3) years after the tax is paid; or
 - (2) one (1) year after the tax is finally determined under IC 6-4.1-5-10;
- whichever is later.

(b) A person must file a claim for a refund on a form prescribed by the department of state revenue. The claim must include:

- (1) the amount of the refund claimed; and
 - (2) the reason the person is entitled to a refund.
- (c) The amount of the refund that a person is entitled to receive under this chapter equals the amount of the erroneously or illegally collected tax, plus interest calculated as specified in subsection (d).

(d) If a tax payment that has been erroneously or illegally collected is not refunded within ninety (90) days after the later of the date on which:

- (1) the refund claim is filed with the department of state revenue; or
- (2) the department of state revenue receives:
 - (A) the inheritance tax return and order required under IC 6-4.1-5-10, in the case of a resident decedent; or
 - (B) the inheritance tax return, in the case of a nonresident decedent;

interest accrues at the rate of six percent (6%) per annum computed from the date under subdivision (1) or (2), whichever applies, until the tax payment is refunded.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.25; P.L.211-2007, SEC.33; P.L.182-2009(ss), SEC.232; P.L.205-2013, SEC.111.

State v. Davies, 177 Ind.App. 288, 379 N.E.2d 501(1977).

Sibbitt v. Indiana Dept. of Revenue, 563 N.E.2d 146 (Ind. Ct. App. 1990), rehearing denied January 17, 1991, transfer denied August 16, 1991.

Indiana Dept. of Revenue, Inheritance Tax Division v. Binhack's Estate, 426 N.E.2d 714 (Ind. Ct. App. 1981).
Matter of Compton's Estate, 406 N.E.2d 365 (Ind. Ct. App. 1980).
Ind. Dept. of Revenue, Inheritance Tax Div. v. Estate of Schoenenberger, 976 N.E.2d 148 (Ind. Tax Ct. 2012).

IC 6-4.1-10-1.5

Refunds of inheritance taxes paid with respect to an individual who dies in 2013

Sec. 1.5. (a) This section applies to a refund of inheritance taxes paid with respect to an individual whose death occurs in 2013.
(b) The entire amount of a refund must be paid by the department, including any amounts retained by a county under IC 6-4.1-9-6.
(c) If a county is eligible to receive an inheritance tax replacement amount under IC 6-4.1-11-6 in 2013, the amount of the replacement amount must be reduced by the amount of any inheritance taxes retained by the county under IC 6-4.1-9-6 with respect to an individual whose death occurs in 2013.
(d) If a county is not eligible to receive an inheritance tax replacement amount under IC 6-4.1-11-6 in 2013, the department may deduct the amount of any inheritance taxes retained by the county under IC 6-4.1-9-6 with respect to an individual whose death occurs in 2013 from any distribution of revenue to the county.

As added by P.L.205-2013, SEC.112.

IC 6-4.1-10-2

Time limits for filing for property interests under IC 6-4.1-6

Sec. 2. The time limits prescribed in section 1 of this chapter for filing a refund claim do not apply if the claim is for the refund of inheritance tax which has been determined in the manner provided in IC 6-4.1-6.

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

IC 6-4.1-10-3

Orders for refund; funds from which payable; credit

Sec. 3. (a) The department of state revenue shall review each claim for refund and shall enter an order either approving, partially approving, or disapproving the refund. If the department either approves or partially approves a claim for refund, the department shall send a copy of the order to:

- (1) the treasurer of the county that collected the tax, if the refund applies to inheritance tax collected as a result of a resident decedent's death; and
- (2) the treasurer of state.

The treasurer of state shall pay the refund from money which is under his control and which has not otherwise been appropriated.

The treasurer of state shall receive a credit for the county portion of the amount so refunded, and the county treasurer of the county owing the credit shall account for the credit on the county's inheritance tax report for the quarter in which the refund is paid.

(b) Within five (5) days after entering an order with respect to a claim for refund filed under section 1 of this chapter, the department shall send a copy of the order to the person who filed the claim.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.26; P.L.98-2000, SEC.5.

IC 6-4.1-10-4

Appeal of refund order; complaint; jurisdiction

Sec. 4. (a) A person who files a claim for the refund of inheritance tax or Indiana estate tax (paid before its repeal) may appeal any refund order which the department of state revenue enters with respect to the person's claim. To initiate the appeal, the person must, within ninety (90) days after the department enters the order, file a complaint in which the department is named as the defendant.

(b) The court which has jurisdiction over an appeal initiated under this section is:

(1) the probate court of the county in which administration of the estate is pending, if the appeal involves either a resident or a nonresident decedent's estate and administration of the estate is pending;

(2) the probate court of the county in which the decedent was domiciled at the time of the decedent's death, if the appeal involves a resident decedent's estate and no administration of the estate is pending in Indiana; or

(3) the probate court of any county in which any of the decedent's property was located at the time of the decedent's death, if the appeal involves a nonresident decedent's estate and no administration of the estate is pending in Indiana.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.27; P.L.205-2013, SEC.113.

Matter of Compton's Estate, 406 N.E.2d 365 (Ind. Ct. App. 1980). \

State v. Davies, 177 Ind. App 288, 379 N.E.2d 501 (1977)

Sibbitt v. Indiana Dept. of Revenue, 563 N.E.2d 146 (Ind. Ct. App. 1990), rehearing denied January 17, 1991, transfer denied August 16, 1991.

Indiana Dept. of Revenue, Inheritance Tax Div. v. Binhack's Estate, 426 N.E.2d 714 (Ind. Ct. App. 1981)

Estate of Neterer v. Indiana Dept. of Revenue, 956 N.E.2d 1214 (Ind. Tax Ct. 2011).

IC 6-4.1-10-5

Probate court determination; appeal

Sec. 5. When an appeal is initiated under section 4 of this chapter, the probate court shall determine the amount of any tax refund due. Either party may appeal the probate court's decision to the tax court in accordance with the rules of appellate procedure.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1980, P.L.57, SEC.28; P.L.59-1990, SEC.2.

IC 6-4.1-10-6

Annual appropriation to pay refund

Sec. 6. Amounts sufficient to pay the refunds provided for under this chapter are annually appropriated.

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

IC 6-4.1-11

Chapter 11. Indiana Estate Tax

IC 6-4.1-11-0.1

Repealed

(Repealed by P.L.205-2013, SEC.114.)

IC 6-4.1-11-1

Repealed

(Repealed by P.L.205-2013, SEC.115.)

IC 6-4.1-11-2

Repealed

(Repealed by P.L.205-2013, SEC.116.)

IC 6-4.1-11-3

Repealed

(Repealed by P.L.205-2013, SEC.117.)

IC 6-4.1-11-4

Repealed

(Repealed by P.L.205-2013, SEC.118.)

IC 6-4.1-11-5

Repealed

(Repealed by P.L.205-2013, SEC.119.)

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, 2013, the treasurer of state shall distribute an inheritance tax replacement amount to each county eligible to receive a distribution as determined under this subsection with respect to inheritance tax collections in the state fiscal year that began on July 1, 2012. The amount of the inheritance tax replacement amount, if any, for each county is determined as follows:

STEP ONE: Determine the inheritance tax replacement amount distributed to the county in 2012, if any, with respect to inheritance tax collections in the state fiscal year that began on July 1, 2011.

STEP TWO: Multiply the STEP ONE amount by ninety-one percent (91%).

STEP THREE: Determine the difference between:

(A) the STEP TWO result; minus

(B) the amount of any inheritance taxes retained by the county under IC 6-4.1-9-6 with respect to a resident decedent's death occurring in 2013.

There is appropriated from the state general fund the amount necessary to make the distributions under this subsection.

(c) A county is not entitled to a distribution under subsection (b) for a state fiscal year beginning after June 30, 2013.

As added by Acts 1976, P.L.18, SEC.1. Amended by P.L.254-1997(ss), SEC.11; P.L.157-2012, SEC.14; P.L.205-2013, SEC.120.

IC 6-4.1-11-7

Repealed

(Repealed by P.L.205-2013, SEC.121.)

IC 6-4.1-11.5 Indiana Generation-Skipping Transfer Tax

Repealed

(Repealed by P.L.205-2013, SEC.122.)

Chapter 12. General Administrative Provisions

IC 6-4.1-12-0.5

Inheritance tax not imposed on a transfer of property resulting from the death of an individual who dies after December 31, 2012

Sec. 0.5. (a) For an individual who dies after December 31, 2012, there is no inheritance tax imposed on the decedent's transfer of property interests.

(b) Sections 1 through 12 of this chapter do not apply to a property interest transferred by a decedent whose death occurs after December 31, 2012.

As added by P.L.157-2012, SEC.15. Amended by P.L.205-2013, SEC.123.

IC 6-4.1-12-1

Jurisdiction of probate court to determine inheritance tax

Sec. 1. The probate court of the county:

- (1) in which a resident decedent was domiciled at the time of the decedent's death; or
 - (2) in which the resident decedent's estate is being administered, if different from the county described in subdivision (1);
- has jurisdiction to determine the inheritance tax imposed as a result of the resident decedent's death and to hear all matters related to the tax determination. However, if two (2) or more courts in a county have probate jurisdiction, the first court acquiring jurisdiction under this article acquires exclusive jurisdiction over the inheritance tax determination.

As added by Acts 1976, P.L.18, SEC.1. Amended by Acts 1977(ss), P.L.6, SEC.11; P.L.86-1995, SEC.9.

IC 6-4.1-12-2

County assessor as inheritance tax appraiser; appointment of other; fees

Sec. 2. Each county assessor shall serve as the county inheritance tax appraiser for the county he serves. However, the appropriate probate court shall appoint a competent and qualified resident of the county to appraise property transferred by a resident decedent if the county assessor is:

- (1) beneficially interested as an heir of the decedent's estate;
- (2) the personal representative of the decedent's estate; or
- (3) related to the decedent or a beneficiary of the decedent's estate within the third degree of consanguinity or affinity.

A person who is appointed to act as the county inheritance tax appraiser under this section shall receive a fee for his services. The court, subject to the approval of the department of state revenue, shall set the fee.

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

IC 6-4.1-12-3

Repealed

(Repealed by Acts 1982, P.L.1, SEC.71.)

IC 6-4.1-12-4

Equipment costs

Sec. 4. The county assessor shall receive funds from the county to pay the actual cost of equipment which he needs to perform the duties assigned to him under this article.

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

IC 6-4.1-12-5

Compromise agreements concerning tax or interest on delinquency

Sec. 5. (a) If one (1) of the conditions listed in subsection (b) of this section exists, the department of state revenue may, with the advice and approval of the attorney general, enter into a compromise agreement concerning the amount of any inheritance tax, or interest charges on delinquent inheritance tax, to be collected under this article. The department may enter into such an agreement with the personal representative of a decedent's estate or with the transferee of property transferred by the decedent.

(b) The department may enter into a compromise agreement under this section only if the department and the attorney general believe that a substantial doubt exists as to:

- (1) the right to impose the tax under applicable Indiana law;
- (2) the constitutionality, under either the Indiana or United States Constitutions, of the imposition of the tax;
- (3) the correct value of property transferred under a taxable transfer;
- (4) the correct amount of tax due;
- (5) the collectability of the tax; or
- (6) whether the decedent was a resident or a non-resident of this state.

(c) After payment of the inheritance tax agreed to by the parties to a compromise agreement entered into under this section, the issue of the amount of tax to be collected may be reopened only if the agreement was entered into fraudulently.

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

IC 6-4.1-12-6

Powers and duties of department of state revenue

Sec. 6. The department of state revenue:

- (1) shall supervise the enforcement of this article;
- (2) shall supervise the collection of taxes imposed under this

article;

(3) shall investigate the manner in which this article is administered and enforced in the various counties of this state;

(4) shall provide the forms and books required to implement this article;

(5) shall promulgate any rules or regulations which are necessary for the interpretation or the enforcement of this article;

(6) may investigate any facts or circumstances which are relevant to the taxes imposed under this article;

(7) shall provide the inheritance tax administrator with a secretary; and

(8) may provide the inheritance tax administrator with assistants, clerks, or stenographers.

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

Estate of Hagerman v. Indiana Dept. of State Revenue, 771 N.E.2d 120 (Ind. Tax Ct. 2002).

Department of State Revenue, Inheritance Tax Div. v. Phelps, 697 N.E.2d 506(Ind. Tax Ct. 1998).

Department of State Revenue, Inheritance Tax Div. v. Estate of Hardy, 703 N.E.2d 705 (Ind Tax Ct. 1998).

Estate of Neterer v. Indiana Dept. of Revenue, 956 N.E.2d 1214 (Ind. Tax Ct. 2011).

IC 6-4.1-12-6.5

Determination of department of state revenue resulting in tax increase; statement in rules

Sec. 6.5. All changes in the department of state revenue's interpretations of IC 6-4.1 that could increase a person's tax liability must be stated in rules promulgated under IC 4-22-2. In no event may a change in a departmental interpretation of IC 6-4.1 that could increase a person's tax liability take effect before the date on which it is promulgated in a rule.

As added by Acts 1979, P.L.75, SEC.14.

IC 6-4.1-12-7

Investigative powers of department of state revenue; witness fees

Sec. 7. For the purpose of conducting an investigation described under clause (3) or clause (6) of section 6 of this chapter, the department of state revenue may:

(1) subpoena evidence;

(2) subpoena witnesses;

(3) administer oaths; or

(4) take testimony concerning any matter.

Each witness examined by the department is entitled to receive a fee equal to the same fee paid witnesses subpoenaed to appear before a court of record. The witness fee shall be paid in the same manner that

erroneous tax payments are refunded under IC 6-4.1-10.
As added by Acts 1976, P.L.18, SEC.1.

IC 6-4.1-12-8

Inheritance tax administrator; appointment; salary

Sec. 8. The governor shall, with the advice of the department of state revenue, appoint a state inheritance tax administrator. The inheritance tax administrator shall receive a salary to be fixed in the manner prescribed in IC 4-12-1-13. In addition, he shall receive the same mileage and travel allowances which other state employees receive.

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

IC 6-4.1-12-9

Powers and duties of inheritance tax administrator

Sec. 9. The inheritance tax administrator:

- (1) shall supervise the administration of this article;
- (2) shall, on behalf of the department of state revenue, perform the administrative duties assigned to the department under this article;
- (3) shall file reports with the department of state revenue on the first day of January, April, July, and October of each year;
- (4) may, with the approval of the governor, employ special auditors or appraisers to appraise any property interest which is transferred by a decedent under a taxable transfer; and
- (5) may, with the approval of the governor, employ special counsel to advise the administrator or to represent the administrator or the department of state revenue in any proceeding initiated by or against the administrator or the department.

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

IC 6-4.1-12-10

Special auditor, appraiser, or counsel; compensation

Sec. 10. A special auditor, appraiser, or counsel appointed by the inheritance tax administrator under section 9 of this chapter shall receive compensation for his services in an amount fixed by the administrator and the governor. When a claim for the compensation is approved by the administrator and the governor, the state auditor shall issue a warrant to the claimant in the amount so approved. The state auditor shall draw the warrant on taxes collected under this article. The state treasurer shall pay the warrant.

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

IC 6-4.1-12-11

Information and investigations concerning non-resident's estates

Sec. 11. The department of state revenue and the inheritance tax administrator shall gather information and make investigations concerning the estates of non-residents whose deaths result in the imposition of a tax under this article.

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

IC 6-4.1-12-12

Disclosure of inheritance tax information; offense

Sec. 12. (a) The department, the department's counsel, agents, clerks, stenographers, other employees, or former employees, or any other person who gains access to the inheritance tax files shall not divulge any information disclosed by the documents required to be filed under this article. However, disclosure may be made in the following cases:

- (1) To comply with an order of a court.
- (2) To the members and employees of the department.
- (3) To the members and employees of county offices and courts to the extent they need the information for inheritance tax purposes. IC 5-14-3-6.5 does not apply to this subdivision.
- (4) To the governor.
- (5) To the attorney general.
- (6) To any other legal representative of the state in any action pertaining to the tax due under this article.
- (7) To any authorized officer of the United States, when the recipient agrees that the information is confidential and will be used solely for official purposes.
- (8) Upon the receipt of a certified request, to any designated officer of a tax department of any other state, district, territory, or possession of the United States, when the state, district, territory, or possession permits the exchange of like information with the taxing officials of Indiana and when the recipient agrees that the information is confidential and will be used solely for tax collection purposes.
- (9) Upon receipt of a written request, to the director of the department of child services or to the director of the division of family resources and to any county director of family and children, when the recipient agrees that the information is confidential and will be used only in connection with their official duties.
- (10) To the attorney listed on the inheritance tax return under IC 6-4.1-4-1 or IC 6-4.1-4-7.
- (11) To a devisee, an heir, a successor in interest, or a surviving joint tenant of the decedent for whom an inheritance tax return was filed or, upon the receipt of a written request, to an agent or attorney of a devisee, an heir, a successor in interest, or a surviving joint tenant of the decedent.

(b) Any person who knowingly violates this section:

(1) commits a Class C misdemeanor; and

(2) shall be immediately dismissed from the person's office or employment, if the person is an officer or employee of the state.

As added by P.L.26-1985, SEC.13. Amended by P.L.67-1988, SEC.3;

P.L.58-1990, SEC.4; P.L.2-1992, SEC.70; P.L.4-1993, SEC.10;

P.L.5-1993, SEC.22; P.L.145-2006, SEC.18.