



DEPARTMENT OF REVENUE  
INDIANA GOVERNMENT CENTER NORTH  
100 N. SENATE AVE

**COMMISSIONER'S DIRECTIVE #45**

**JULY 2013**

**Effective Date: July 1 2013**

**SUBJECT:** Repeal of the Inheritance Tax, Estate Tax, and Generation Skipping Tax

**REFERENCES:** IC 6-4.1-1-0.5; IC 6-4.1-1-4; IC 6-4.1-2-0.5; IC 6-4.1-3-0.5; IC 6-4.1-4-0.2; IC 6-4.1-5-0.5; IC 6-4.1-5-1.1; IC 6-4.1-6-0.5; IC 6-4.1-7-0.5; IC 6-4.1-8-0.5; IC 6-4.1-8-4; IC 6-4.1-9-0.5; IC 6-4.1-10-1; IC 6-4.1-10-1.5; IC 6-4.1-10-4; IC 6-4.1-11-0.1; IC 6-4.1-11-1; IC 6-4.1-11-2; IC 6-4.1-11-3; IC 6-4.1-11-4; IC 6-4.1-11-5; IC 6-4.1-11-6; IC 6-4.1-11-7; IC 6-4.1-11.5; IC 6-4.1-12-0.5

**DISCLAIMER:** Commissioner's directives are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information that is not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

**SUMMARY**

This directive provides information related to the repeal of the Inheritance Tax, Estate Tax, and Generation Skipping Tax, as enacted in HEA 1001-2013.

**REPEAL OF THE TAXES**

Effective Jan. 1, 2013, HEA 1001-2013 repealed the inheritance tax, the estate tax, and the generation skipping tax. Sections 99 through 110 repeal the inheritance tax. Sections 111 through 113 apply to refunds of the inheritance tax. Sections 114 through 119 and Section 121 apply to the repeal of the estate tax. Section 120 applies to distributions to eligible counties, and Section 122 applies to the repeal of the generation skipping tax. Section 123 repeals provisions concerning the administration of the inheritance tax. The repeal of the inheritance tax applies to any decedent whose death occurs after Dec. 31, 2012, and the repeal of the estate tax and the generation skipping tax is effective on Jan. 1, 2013.

**REFUND OF TAXES PAID FOR DEATHS BEFORE JANUARY 1, 2013**

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

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

### **REFUND OF TAXES PAID FOR DEATHS THAT OCCUR IN 2013**

A person who paid taxes for the estate of a person who died after Dec. 31, 2012, is entitled to a refund. The entire amount of a refund must be paid by the department, including any amounts retained by the county. A person must file a claim for refund on a form prescribed by the department (Form IH-5).

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

### **FINAL DISTRIBUTION TO COUNTIES OF INHERITANCE TAX REPLACEMENT AMOUNT**

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

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

### **REPEAL OF ESTATE TAX AND GENERATION SKIPPING TAX**

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

  
Michael J. Alley  
Commissioner