Indiana Inheritance Tax
Frequently Asked Questions

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History

What Is the History of the Inheritance Tax in Indiana?

The Indiana inheritance tax became effective on May 1, 1913, after 10 years of spirited debate. Indiana was the 42nd state to ratify some form of death transfer taxation. The first act was substantially a copy of the New York statutes of 1911, but it was also similar to the statutes of Illinois, California and Wisconsin. The Indiana law imposed an inheritance tax at progressive rates upon lineal and collateral relatives, as well as strangers.

The act was amended in 1915, 1917, and 1919. The 1917 amendment provided that gifts made by a decedent within two years of death were conclusively presumed to have been made in contemplation of death. The 1921 amendments expressly taxed joint tenancies, imposed a tax upon the transfer of intangibles by a nonresident decedent, changed the conclusive presumption of a gift made in contemplation of death to a rebuttable presumption, and enacted a new table of tax rates.

A new act was adopted in 1929 that differed from prior acts in that:

- Life insurance (with certain exceptions) was expressly included for taxation;
- The exercise of a power of appointment was omitted;
- Reciprocity was extended to other states which had similar laws in regard to the non-taxability of intangible property owned by nonresident decedents; and
- Credit was given for property previously taxed.

In 1931 another new act changed the 1929 law substantially. The transfer of jointly held property was taxed as though the whole property had belonged to the decedent except such part as originally belonged to the survivor(s). Life insurance with certain exceptions was excluded from the inheritance tax. The exemptions were decreased and the tax rates were increased. An additional tax, an estate tax, was imposed and was designed to absorb the credit allowed under the federal estate tax law. The credit allowed under the 1929 act as to previously taxed property was omitted.

The 1931 statute was recodified in 1976. This recodification did not make any substantive changes in the law, but the law was restated and new sections were added in order that the law might be better understood. There have been several amendments since this recodification.

Listed below are some of the significant changes with the year of enactment:

- Created the Indiana Generation-Skipping Transfer Tax under § 6-4.1-11.5 et al (1991).
- Increased the statute of limitations for a petition for rehearing from ninety (90) to (120) days under Ind. Code § 6-4.1-7-1 (1992).

- Increased the statute of limitations for a petition based on federal line changes from thirty (30) days to sixty (60) days under Ind. Code § 6-4.1-7-6 (1992).

- Clarified that real estate held in a trust is intangible and therefore not taxable if located outside Indiana under Ind. Codes §§ 6-4.1-2-2, 2-3, and 11-2 (1993).

- Also clarified that real estate located in Indiana is not taxable if it is held by a truly irrevocable trust and the transfer to the trust was not made in contemplation of death. Ind. Code §§ 6-4.1-2-2 and 3. Amended in response to the Blood and Puschel cases (followed by Nichols case) (1993).

- Consent to transfer statute was amended to add provisions for property held in trust limiting transfers without consent to those to a surviving spouse under Ind. Code § 6-4.1-8-4 (inserted paragraphs b and c). Also created the affidavit of transfer of trust property that no tax is due (1996).

- Changed responsibility of pursuing delinquent tax from county treasurer and prosecutor to department under Ind. Code § 6-4.1-9-11 (1996).

- Increased class A exemption to $100,000 under Ind. Code § 6-4.1-3-10 (1997).

- Repealed provisions for lock box inventories under Ind. Codes §§ 6-4.1-8-5, 6, and 8 (sections 6 and 8 were repealed completely) (1999).

- Decreased filing deadline for return from twelve (12) months to nine (9) months under Ind. Code §§ 6-4.1-4-1 and 7. Included technical correction to Ind. Code § 6-4.1-4-2 (2001).

- Decreased time period to receive 5% discount for early payment from twelve (12) months to nine (9) months under Ind. Code § 6-4.1-9-2 (2001).

- Decreased due date for inheritance, estate and generation-skipping transfer tax from eighteen (18) months to twelve (12) months after the date of death under Ind. Codes §§ 6-4.1-9-1, 11-3, and 11.5-9 (2001).

- Amended Ind. Code §§ 6-4.1-4-0.5 and 8-1 to create new uses for the affidavit to include filing with recorder's office to remove automatic tax lien and filing with consent to transfer for personal property (2001).

- Removed requirement for mandatory notice for appraisement of property by county, notice of hearing by the court on such appraisal, and notice of determination of inheritance tax due. The amendment instead requires notice only to those who request it under Ind. Code §§ 6-4.1-5-3, 9, and 11, respectively. Previously in almost every case, the taxpayer would file a waiver of notice and there would be no appraisal by the county anyway. So the change was made to avoid unnecessary paperwork (2002).

- Made the order determining the amount of inheritance tax confidential under Ind. Code § 6-4.1-5-10 (2003).

- Added stepchildren and their lineal descendents as class A transferees under Ind. Code § 6-4.1-1-3 (2004).

- Limited adopted children as class A transferees to those adopted before total emancipation under Ind. Code § 6-4.1-1-3 (2004).

- Changed refund statute to provide that if the claim for refund is not acted upon within ninety (90) days, the department will pay interest at 6% on the amount erroneously or illegally collected from the latter of the department's receipt of the claim for refund or Indiana inheritance tax return under Ind. Code § 6-4.1-9-1 (2009).

- In 2012 Ind. Code 6-4.1-1 was amended to add a definition of "entity" to the inheritance tax code. Ind. Code 6-4.1-1-3.5 was added and defines an "entity" to include a partnership, limited partnership, limited liability partnership, association, corporation, limited liability company, trust, or similar entity. For individuals dying after June 30, 2012, a transfer to an "entity" is considered a transfer to each individual with a beneficial (whether discretionary or not) or ownership interest in the entity. Each individual is liable for a percentage of taxes imposed equal to that individual's beneficial or ownership interest in that entity.

- The 2012 General Assembly expanded the definition of Class A transferees to include the spouse, widow, or widower of tranferor's children and stepchildren (daughters- and sons-in-law) for those transferors dying in 2012.

- The 2012 General Assembly increased the exemption amount for each Class A transferee from $100,000 to $250,000 for those individuals dying in 2012.

- Legislation passed in 2012 provided for a nine year phase out of Indiana's inheritance tax starting in 2013 and ending in 2022. This was to be done through a credit against the tax using 10% increments increasing 10% each year through the end of 2021. The year of death would determine the credit percentage:

  - **Year of Death** **Credit**
  - 2013 10%
  - 2014 20%
  - 2015 30%
  - 2016 40%
  - 2017 50%
  - 2018 60%

- o 2019 70%
- o 2020 80%
- o 2021 90%

The tax would have been repealed for decedents dying after 12/31/2021.

- In 2013, the inheritance tax refund statute (Ind. Code 6-4.1-10-1) was amended to require anyone claiming a refund had to use the department's prescribed form (Form IH-5).
- In 2013, the inheritance tax refund statute was amended to define "finally determined." The inheritance tax is "finally determined" when an Indiana probate court issues an order determining tax (Form IH-9) under Ind. Code 6-4.1-5-10 for an Indiana resident or the Department of Revenue issues an order determining tax under Ind. Code 6-4.1-5-16 for a non-resident.

Repeal of Inheritance Tax (P.L. 205 – 2013)

Indiana's inheritance tax was repealed **for individuals dying after December 31, 2012**. No inheritance tax returns (Form IH-6 for Indiana residents and Form IH-12 for nonresidents) have to be prepared or filed and no tax has to be paid. In addition, no Consents to Transfer (Form IH-14) personal property or Notice of Intended Transfer of Checking Account (Form IH-19), Affidavit of Transferee of Trust Property That No Indiana Inheritance or Estate Tax is Due on the Transfer (Form IH-TA) and notices that life insurance proceeds have been paid to an individual's estate are required for those dying after December 31, 2012.

Indiana's inheritance tax still applies **for individuals dying before January 1, 2013**. In general, estates or beneficiaries of **Indiana residents** are required to file an inheritance tax return (Form IH-6) with the appropriate probate court, if the value of transfers to any beneficiary is greater than the exemption allowed for that beneficiary. Consents to transfer securities or personal property (Form IH-14), (financial accounts - e.g. savings, CDs, IRA, annuities, investment accounts) and Notice of Intended Transfer of Checking Account (Form IH-19), Affidavit of Transferee of Trust Property That No Indiana Inheritance or Estate Tax is Due on the Transfer (Form IH-TA) and notices that life insurance proceeds have been paid to an individual's estate are required for those dying before January 1, 2013.

In general, estates or beneficiaries of deceased **Indiana nonresidents dying before January 1, 2013** are required to file an inheritance tax return (Form IH-12) with the Inheritance Tax Section of the Indiana Department of Revenue if the value of the transfers is greater than the exemption allowed for that beneficiary if the property transferred is Indiana real property and/or tangible personal property located in Indiana.

Other Indiana Death Taxes

Are there Indiana death taxes other than inheritance tax?

The 2013 legislature officially repealed Indiana's Estate and Generation-Skipping Transfer taxes. Due to federal legislation, Indiana had not collected these taxes since 2005. Federal legislation in 2001 had phased out the "federal state death tax credit" and the "federal generation-skipping transfer tax credit" from 2002 – 2004 but they were not permanently eliminated until late 2012.

Prior to their repeal on January 1, 2013, the Indiana state estate tax and generation-skipping transfer tax) were dependent upon federal estate and gift tax laws. The Indiana estate tax – also called a "pick up" tax or "sponge" tax – was dependent upon federal estate tax, in that it was "coupled" with federal estate tax. Prior to 2001, the Indiana estate tax and generation-skipping transfer taxes were imposed, if applicable. Under IRC § 2011, the IRS has a table for computing the exact amount of "State Death Tax Credit" (SDTC) that an estate is entitled to. Congress amended the federal estate and gift tax laws in 2001. The SDTC was gradually reduced in years 2002 to 2004 and then eliminated starting in the year 2005 through 2012. The SDTC was replaced by a "State Death Tax Deduction" in 2005. Because Indiana's estate tax and generation-skipping transfer tax statutes include formulas that are dependent upon the SDTC and federal generation-skipping transfer tax credit, those death taxes were no longer in effect.

Year	Federal Unified Credit	Federal Exemption Equivalent	Federal State Death Tax Credit	Federal State Death Tax Deduction	Indiana Estate Tax	Indiana Inheritance Tax
2001	$220,550	$675,000	100%	No	Yes	Yes
2002	$345,800	$1,000,000	75%	No	Yes	Yes
2003	$345,800	$1,000,000	50%	No	Yes	Yes
2004	$555,800	$1,500,000	25%	No	Yes	Yes
2005	$555,800	$1,500,000	None	Yes	No	Yes
2006	$780,800	$2,000,000	None	Yes	No	Yes
2007	$780,800	$2,000,000	None	Yes	No	Yes
2008	$780,800	$2,000,000	None	Yes	No	Yes
2009	$1,575,800	$3,500,000	None	Yes	No	Yes
2010	$1,730,800[1]	$5,000,000[1]	None	No	No	Yes
2011	$1,730,800	$5,000,000	None	Yes	No	Yes
2012	$1,730,800	$5,120,000	None	Yes	No	Yes
2013	$1,730,800	$5,250,000	None	Yes	No	No

[1] The federal estate tax was reinstated for decedents dying in 2010, but any 2010 decedent's estate can file a special election to prevent the estate tax from applying.

~~[2] Subject to adjustment for inflation.~~

Federal Exemption Equivalent – also called "lifetime exclusion amount" or "applicable exclusion amount" – the total asset value that a person can give away during their lifetime or at death without owing any federal estate tax. Between 2002 and 2010, the exclusion amount for lifetime gifting was only $1 million.

If the sum of a decedent's federal gross estate plus his or her post-1976 taxable gifts exceeds the "federal exemption equivalent" amount for the year of death, a Federal Estate Tax Return (Form 706) is required.

Federal Unified Credit – the tax computed at the federal estate tax rates on the federal exemption equivalent amount.

Residency

Indiana resident or nonresident?

A resident of Indiana for inheritance tax purposes is an individual who was domiciled in Indiana on the date of the individual's death. Domicile means "the place where a person has his true, fixed, permanent home and principal establishment, and to which place he has, whenever he is absent, the intention of returning." State Election Board v. Bayh, 521 N.E.2d 1313, 1317 (Ind. 1988) (citing Board of Medical Reg. and Exam. V. Turner, 168 N.E.2d 193, 196 (Ind. 1960)). Residency for inheritance tax purposes turns on the question of the decedent's intention to return to Indiana or to some other state. Such intention is determined by considering the following:

- Time spent by decedent in each location;
- Decedent's ownership of property at each location, including joint ownership;
- Location of decedent's furniture;
- Location of decedent's usual doctor;
- Where decedent attended church;
- State in which decedent paid taxes;
- Where decedent was buried;
- State where decedent registered his motor vehicles and obtained driver's license;
- State where decedent voted; and
- Any other information helping to establish that decedent abandoned former domicile and intended to permanently reside at the new location.

In a close case, the estate can contact the department for a recommendation or petition that the decedent's domicile be determined by the appropriate Indiana probate court in which the decedent's Indiana real estate is located.

(Ind. Code § 6-4.1-1-11, 45 Ind. Admin. Code 4.1-1-13 (Resident); Ind. Code § 6-4.1-1-7, 45 Ind. Admin. Code 4.1-1-12 (Nonresident))

Transfers Subject to Inheritance Tax

Introduction

What transfers are subject to the inheritance tax?

Indiana's inheritance tax was repealed for individuals dying after December 31, 2012. Transfers from individuals dying after December 31, 2012 are not subject to Indiana inheritance tax. However, Indiana's inheritance tax still applies for individuals dying before January 1, 2013.

The information below applies to transfers of individuals dying before January 1, 2013:

<u>Nonresident decedents</u> – the inheritance tax applies to all transfers of Indiana real estate interests owned by a nonresident, as well as tangible property that has its situs in Indiana. (Ind. Code § 6-4.1-2-3)

<u>Indiana decedents</u> – the inheritance tax applies to all transfers made by a resident of Indiana including real property located in this state, tangible personal property which does not have an actual situs outside of Indiana, and intangible personal property regardless of where it is located (Ind. Code § 6-4.1-2-2).

<u>Transfers that are subject to inheritance tax include</u>:

- Will (Ind. Code § 6-4.1-2-4);
- Trust distributions where the creator of the trust retains certain powers or interests (Ind. Code § 6-4.1-2-6);
- Intestate laws (Ind. Code § 6-4.1-2-4);
- Joint ownership with rights of survivorship (Ind. Code § 6-4.1-2-5);
- Transfers that take effect in possession or enjoyment at or after death (Ind. Code § 6-4.1-2-4):
    - Payable on death (POD) to certain beneficiaries (e.g. annuities, individual retirement accounts)
    - Transfers on death (TOD) to certain transferees (e.g. bank accounts, real estate)
- Transfers in contemplation of death (Ind. Code § 6-4.1-2-4);
- Transfers that are made in payment of a claim against the estate (e.g. contracts, antenuptial and postnuptial agreements) (Ind. Code § 6-4.1-2-4);

- Transfer of life insurance proceeds that are payable to the decedent's estate and subject to claims against the estate (Ind. Code § 6-4.1-3-6);

- Transfers to an "entity" (Ind. Code § 6-4.1-2-8)

Trust Distributions (For those individuals dying before January 1, 2013)

What types of trust distributions are taxable?

If a person transfers property to a trust and reserves any income interest; the right to revoke, alter, or amend the trust; control or use of the property transferred into a trust; the right to direct the payment of income to other persons; or the right to change the beneficiaries, the value of the trust assets are subject to inheritance tax as a result of the transferor's death. Transfers of trust assets that are real estate or tangible personal property located outside of Indiana are not taxable (Ind. Code § 6-4.1-2 to 6).

If a nonresident transfers Indiana real estate into a trust, the real estate is still subject to inheritance tax. The exception is if the Indiana real estate was transferred to an irrevocable trust during the decedent's lifetime, the transfer to the trust was not made in contemplation of transferor's death, and the decedent didn't have a retained interest in the trust (Ind. Code § 6-4.1-2-3).

Joint Ownership with Rights of Survivorship (For those individuals dying before January 1, 2013)

Is jointly held property subject to inheritance tax? If so, what value of the transfer is subject to inheritance tax?

It depends on the type of joint ownership. If the property is held "jointly with rights of survivorship," then, yes, the jointly held property is subject to inheritance tax because the death of one joint owner automatically causes a transfer of the property to the surviving joint owner(s) and inheritance tax is a tax on the transfer of property (Ind. Code § 6-4.1-2-5). If the property is held jointly as "tenants in common," then the inheritance tax only applies to the portion of the property owned by the decedent. The Indiana inheritance tax applies to both personal and real property owned jointly.

The value of the transfer of jointly held property that is subject to inheritance tax is the total value of the property minus the value of the surviving joint owner's proven contributions (Ind. Code § 6-4.1-2-5). This means that in the case where the surviving joint owner (except the decedent's spouse) is unable to prove his or her contribution to the jointly held property, then the entire value of the jointly held property is subject to inheritance tax.

To “prove” contribution to jointly held property by a surviving joint owner, provide documentation of contribution to the purchase price, deposits to a joint account, payment toward a mortgage, inheritance, or other similar information. Self-serving statements and affidavits will be given limited credibility but will be judged individually.

What if the surviving joint owner was added to a bank account for the convenience of the decedent, but the decedent wanted the value of the bank account to pass to individuals other than the surviving joint owner?

If the surviving joint owner can demonstrate that a joint bank account (and only a joint bank account) was established for the convenience of the decedent and that the rights of survivorship were not intended, the joint bank account will be considered as passing as a part of the decedent’s estate and not pursuant to the joint tenancy (45 Ind. Admin. Code 4.1-2-9(c)). This is usually shown by an affidavit of the surviving joint owner.

Transfers that Take Effect in Possession or Enjoyment at or After Death (For those individuals dying before January 1, 2013)

What are transfers that take effect in possession or enjoyment at or after death?

Such a transfer is, in practical effect, the same as a testamentary disposition except that the transferor parts with legal title during the transferor’s lifetime. The basis of taxing these transfers is that the transfer of the beneficial interest is postponed until the donor dies. The full date of death value is includable on the inheritance tax return.

<u>Example #1</u>

Father owns real estate and during his life deeds real estate to his children, but he reserves a life estate to himself. At the father’s death, the full date of death value of the real estate is includable on the decedent’s inheritance tax return. The full value is split equally among his children and taxed accordingly because they did not come into full possession of the real estate until their father died.

At the decedent’s death, the present possessory estate (i.e., reserved life estate) passes to the children and merges with the remainder already transferred to them. Consequently, the tax attaches only when the children receive full rights in the real estate, including that possessory interest that the decedent had retained during his lifetime.

<u>Example #2</u>

Mother gifts remainder to daughter and the income from the property to another person for a period not measured by the mother’s life. This transfer is not taxable because all beneficial interest is vested in the beneficiaries prior to the mother’s death. However, if the transfer was within one year of the mother's death, it would be presumed to have been made in contemplation of death. See "Gifts in Contemplation" below.

Example #3

Owner gifts property to another person but retains a life estate. Grantee of the property dies before the owner. The transfer is taxable to the original grantee if the transfer was made without full consideration. Also, when the remainderman in such a case dies before the life tenant, the value of the remainder interest is taxable to the grantee-remainderman.

Example #4

Owner transfers assets into a trust where the trustee is directed to accumulate the trust's income during the owner's life, and upon the owner's death, the trust is to be paid to named beneficiaries. The full amounts transferred at the owner's death are taxable to the named beneficiaries. These are taxable because the beneficiaries do not come into possession or enjoyment until the owner's death. The value of the property transferred is the value at the date of death of the owner.

Frequently occurring types of transfers that are intended to take effect in possession or enjoyment at or after death are transfers of annuities, individual retirement accounts (IRAs), pensions, and profit sharing plans. These transfers are often called "payable on death" (POD) because they are paid at the death of the owner to certain named beneficiaries. A more recent similar type of transfer are "transfers on death" (TOD) to certain transferees – e.g., bank accounts or real estate.

The proceeds of these types of transfers are taxable because the amounts paid in are always held for the use of the person contributing during his or her life and then pass to beneficiaries at the owner's death. This is true unless the decedent has no property interest in the proceeds. Such property interests include the right to receive payments, withdraw funds, or change the beneficiary.

Gifts in Contemplation (For those individuals dying before January 1, 2013)

What is a "gift in contemplation"?

The term "gift in contemplation" is not used in the Indiana Code or Indiana Administrative Code. However, it is used as a shorthand term for those transfers which are made in contemplation of death and which are subject to the inheritance tax described in Ind. Code § 6-4.1-2-4(a)(2), -4(b) and 45 Ind. Admin. Code 4.1-2-6.

Does Indiana inheritance tax have a "look back" period?

No. However, a transfer made by a decedent within the last year of her life is presumed to be a transfer that is made in contemplation of death and therefore subject to the inheritance tax.

However, the presumption can be rebutted by providing information on the factors listed in 45 Ind. Admin. Code 4.1-2-6. (Ind. Code § 6-4.1-2-4(a)(2), -4(b)).

What if the decedent gifted or transferred assets within the last year of her life? Are these transfers subject to inheritance tax?

The Indiana inheritance tax applies to all transfers that are made in contemplation of the decedent's death (Ind. Code § 6-4.1-2-4(a)(2)). Transfers made as a substitute for a testamentary disposition, with the purpose of avoiding death taxes, or for any other motive associated with death are transfers which are made in contemplation of the decedent's death (45 Ind. Admin. Code 4.1-2-6(d). Transfers made within the last year before the decedent's death are presumed to be transfers that are made in contemplation of the decedent's death; however, the presumption can be rebutted (Ind. Code § 6-4.1-2-4(b), 45 Ind. Admin. Code 4.1-2-6(d)). This means that unless the presumption that such transfers were made in contemplation of the decedent's death is rebutted by the estate, such transfers are included in the decedent's gross estate and are subject to the inheritance tax.

The Department of Revenue can assert that a transfer made more than one year before the decedent's death was made "in contemplation of death" and is therefore taxable. This is a question of fact, where the relevant factors are those listed in the next paragraph, but there is no presumption of taxability for transfers occurring more than one year before death.

The Indiana Administrative Code outlines factors to be considered when determining whether a transfer is a transfer that is made in contemplation of the decedent's death and should be reviewed when attempting to rebut the presumption. These factors are

- Motive of the transferor
- Mental and physical condition of the transferor, including the cause of death whether that condition was known to the transferor on the date of the transfer
- Age of the transferor
- Length of time between the transfer and death
- Existence of a pattern of making gifts
- Portion of the transferor's estate transferred
- Property interest was transferred to a transferee who would have otherwise received the property on the transferor's death

(45 Ind. Admin. Code 4.1-2-6(e))

The decedent's knowledge of his or her mental and physical condition is a factor but is not a required element in determining whether the gift is made in contemplation of death. For inheritance tax purposes, the concept of a transfer "made in contemplation of death" does not have the same requirements as a "gift causa mortis." While to make an effective "gift causa mortis," death must be imminent and the decedent must be aware of his or her imminent death, neither of these is a factor to be considered when determining whether a transfer was made in contemplation of death for inheritance tax purposes (45 Ind. Admin. Code 4.1-2-6(c)).

As with other transfers, the value of property transferred in contemplation of death is to be determined as of the "appraisal date" (usually, the date of the transferor's death). Place the values of all such transfers made in contemplation of the decedent's death on Schedule E and distribute the correct values to the appropriate transferees on the Computation Page of the return.

Life Insurance Payable to the Decedent's Estate (For those individuals dying before January 1, 2013)

What values for life insurance should be reported on the inheritance tax return?

Life insurance is includable if the proceeds are payable to the estate and subject to claims against the estate. The value to report would be the entire proceeds – i.e., base amount, dividends, and interest as of the date of the decedent's death. Life insurance proceeds payable in such a manner as to be subject to claims against the estate and to distribution are taxable. However, if the life insurance proceeds are payable to specific beneficiaries (including the decedent's trust), they are exempt from inheritance tax. The cash surrender value on the date of death of a policy owned by the decedent on the life of another is includible in the taxable estate of that decedent because the value of the contract is available to the owner during the owner's lifetime (Ind. Code § 6-4.1-3-6 and 45 Ind. Admin. Code 4.1-3-3).

Annuities (For those individuals dying before January 1, 2013)

What is the basic difference between life insurance and annuities?

In the case of an annuity, the company agrees to repay the amount paid by the participant plus earnings on the amount paid. However, in the case of a life insurance policy, the company agrees to pay a definite amount upon the death of the person insured. The computation of the consideration for a life insurance policy is based upon the use of a risk or experience factor (45 Ind. Admin. Code 4.1-3-3 and 4.1-3-4). There are many different insurance and annuity products that are marketed by financial institutions and insurance companies that complicates whether a policy is an annuity or a life insurance policy. The department will look to the nature of the contract in determining whether the proceeds were payable from a life insurance policy or an annuity policy. For example, if an annuity contract has a death benefit rider, all of the proceeds transferred to the beneficiaries are taxed as annuity proceeds, not as life insurance.

What annuities, if any, are exempt from inheritance tax?

Ind. Code § 6-4.1-3-6.5 states that the annuity is exempt from inheritance tax to the same extent that the annuity would be excluded from the gross estate for federal estate tax purposes. Under 26 USC § 2039, the federal gross estate includes the value of the annuity for estate tax purposes, if the contract was entered into after March 3, 1931. Therefore, the annuity is taxable for Indiana inheritance tax purposes if the annuity contract was entered into after March 3, 1931. If the annuity contract dates prior to March 3, 1931, the annuity is not taxable in Indiana for inheritance tax purposes (Ind. Code § 6-4.1-3-6.5 and 45 Ind. Admin. Code 4.1-3-4).

If an annuity is subject to the inheritance tax, what value should be included on the IH-6?

The gross value of what the beneficiary(ies) is entitled to receive before income taxes are deducted should be reported on the inheritance tax return. As annuities are tax-deferred assets, they are subject to both income and inheritance taxes. The income taxes are **<u>not</u>** deductible on the IH-6 because they are not tax debts of the decedent or expenses of administration. They are taxed to the individual recipients. Based upon Section 2039 of the Internal Revenue Code, the amount to be reported for an annuity is the amount actually received by the beneficiary. It is the same in Indiana. This amount would include any death benefit payable as a part of the annuity contract (Ind. Code § 6-4.1-3-6.5 and 45 Ind. Admin. Code 4.1-3-4).

If a decedent dies giving an annuity to two beneficiaries, what value is transferred for each beneficiary if one beneficiary elects to take a lump sum and the other beneficiary elects payments over a period of years?

The value given to each beneficiary should be the lump sum distribution available to each regardless of which election the transferee chooses. The Indiana annuity tables are inapplicable to determine the value for the person electing the annuity payments because the company already stated the actual value to be given to the beneficiary in a lump sum. Under Ind. Code § 6-4.1-6-2, the department shall appraise a property interest that may be divested because of an act or omission by the transferee as if there were no possibility of divestment.

Transfers to "Entities" (For those individuals dying after June 30, 2012 but before January 1, 2013)

If a decedent dies transferring interests or assets to an "entity," how will such transfers be taxed?

Ind. Code 6-4.1-1 was amended to add a definition of "entity" to the inheritance tax code. Ind. Code 6-4.1-1-3.5 was added and defines an "entity" to include:

- partnerships
- limited partnerships
- limited liability partnerships
- associations
- corporations
- limited liability companies
- trusts

- similar entities

For individuals dying after June 30, 2012, a transfer to an "entity" is considered a transfer to each individual with a beneficial (whether discretionary or not) or ownership interest in the entity. Each individual is liable for a percentage of taxes imposed equal to that individual's beneficial or ownership interest in that entity.

45 Ind. Admin. Code 4.1-2-10(e) states "A transfer by trust is taxable to the beneficiaries of the trust and not to the trustee. The tax rate is determined by the relationship of the beneficiary to the transferor." (45 Ind. Admin. Code 4.1-2-10(e)) Based on this regulation, the department "looks through the trust" to see who will receive the beneficial interests in the trust and taxes those individuals based on their relationship to the decedent. Based on the 2012 law, the department will now "look through the entity" to see who will receive the beneficial or ownership interests in the entity and will tax those individuals based on their relationship to the decedent.

Transfers Exempt from Tax (For those individuals dying before January 1, 2013)

Charities, Cemetery Associations, and Surviving Spouse Exemptions

What transfers are exempt from inheritance tax?

1) Transfers that are exempt from taxation include ones to charities that are exempt based upon section 2055(a) of the Internal Revenue Code (Ind. Code § 6-4.1-3-1).

2) Also exempt are transfers to cemetery associations (Ind. Code § 6-4.1-3-1.5).

3) Transfers of all property interests to a surviving spouse are exempt (Ind. Code § 6-4.1-3-7).

Even though the above transferees are exempt from inheritance tax, the property interests being transferred to them should still be fully reported on the inheritance tax return to facilitate the audit.

QTIP

What is a qualified terminable interest property (QTIP)?

Certain transfers that are not outright to a surviving spouse, and thus are not entitled to an unlimited exemption, may still be treated as such if the following requirements are met:

1) Property is eligible
2) Estate makes a proper election

Property may be eligible to be treated as an outright transfer to the spouse (and is thus eligible for the unlimited exemption) if the spouse is entitled to a "qualifying income interest for life."

The spouse is entitled to a "qualifying income interest for life" if: 1) the spouse is entitled to all of the income for life; and 2) no person has the ability to appoint any of the property to any person other than the spouse (Ind. Code §6-4.1-3-7, IRC § 2056(b)(7)). The second element means that the surviving spouse is the only person who is eligible to receive distributions from or to benefit from the property (such as trust assets) during the surviving spouse's lifetime.

The estate can elect to treat this property as transferring to the spouse outright by having the personal representative or trustee make the election in a separate writing and by actually attaching it to the originally filed Indiana inheritance tax return (Ind. Code § 6-4.1-3-7). This is called a QTIP election. The regulation 45 Ind. Admin. Code 4.1-3-5(b)(4) includes the form and substance in which this election should be made. Be sure to identify the specific property included in the election and have the appropriate person sign it.

Once made, the QTIP election is irrevocable and the property included in such election is subject to inheritance tax in the spouse's estate.

An estate cannot make a QTIP election with an amended inheritance tax return. The election must be in writing and attached to the original return. Making a QTIP election on the federal estate tax return does not mean the estate has made an election on the Indiana inheritance tax return. The estate must make a separate election for the Indiana inheritance tax return.

529 Plans (For those individuals dying before January 1, 2013)

Is a 529 plan exempt from the Indiana inheritance tax?

Yes. Under Ind. Code § 21-9-7-3, a trust account or any other account of an education savings program created by the Indiana Education Savings Authority, including a qualified state tuition program under Section 529 of the Internal Revenue Code (i.e., an Indiana College Choice 529 plan), is exempt from the Indiana inheritance tax (Ind. Codes §§ 21-9-2-2, -11 and 21-9-7-3).

Is a 529 plan that is owned by the decedent and operated by a state other than Indiana subject to the Indiana inheritance tax?

Yes. Because a 529 plan must be operated by the Indiana Education Savings Authority to be exempt from the Indiana inheritance tax under Ind. Code § 21-9-7-3.

Is a Coverdell Education Savings Account exempt from the Indiana inheritance tax?

No. "Coverdell education savings account means a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of an individual who is the designated beneficiary of the trust (and designated as a Coverdell education savings account at the time created or organized)…" (IRC § 530). This account is created under Internal Revenue Code §530 and is required to have a bank or financial institution as the trustee. Therefore, because a Coverdell Education Savings Account is not administered by an education savings program established under Ind. Code § 21-9-3 by the Indiana Education Savings Authority, it would be subject to the Indiana inheritance tax as property of the account owner.

Wrongful Death Proceeds (For those individuals dying before January 1, 2013)

Do I need to report proceeds from a wrongful death settlement on the Inheritance Tax Return?

No. It is the position of the department that proceeds recovered by an action for wrongful death, pursuant to Ind. Code § 34-23-1-1, are not subject to the Indiana inheritance tax because the right to bring such action is not a right of the decedent or survivorship action which survives him or her (see Lindley v. Sink, 1941, 30 N.E. 2d 456, 218 Ind. 1, 2 A.L.R. 2d 772).

However, by virtue of the language found in Ind. Code § 34-23-1-1, it is also the position of the department that in such a situation the estate is not entitled to deduct funeral expenses and expenses of the last illness of the decedent. The personal representative is required to pay such expenses out of part of the recovery proceeds, and because such expenses are not paid out of the decedent's estate, they are therefore not deductible.

Personal Injury Proceeds (For those individuals dying before January 1, 2013)

Are proceeds from a personal injury claim received by the estate includable for inheritance tax purposes?

Yes, if the cause of action arose prior to the decedent's death.

When a Return Is Required

When do I need to file an IH return?

If the total fair market value of the property interests transferred by the decedent to at least one transferee exceeds the exemption provided to such transferee, the estate is required to file an Indiana Inheritance Tax Return (Form IH-6) (Ind. Code § 6-4.1-4-0.5).

Valuation of Property Interests/Assets (For those individuals dying before January 1, 2013)

Valuation Date

Does Indiana have an alternate valuation date for the valuation of assets?

If the estate elects the alternate valuation date on Form 706 and the IRS accepts the election, the department will allow use of the alternate valuation date (six months after the decedent's date of death under 26 U.S.C. § 2032). The IRS will not accept an election for the alternate valuation date unless the value of the federal gross estate and the federal estate tax decreases. If a Form 706 is not required to be filed by the estate, the decedent's date of death is the valuation date for Indiana inheritance tax purposes (Ind. Code § 6-4.1-5-1.5).

Fair Market Value

At what value should the decedent's property be reported?

All of the decedent's property interests and assets must be reported on the return at fair market value as of the "appraisal date" (Ind. Code § 6-4.1-4-1(a)(2)). Fair market value is defined as "the price at which a willing buyer and a willing seller would arrive, after negotiation for a sale, where neither is acting under compulsion and both have a reasonable knowledge of all the facts affecting value" (45 Ind. Admin. Code 4.1-5-1).

Fair market value may be established by any reasonable method, the most common of which are the sales price in an arms-length transaction or an appraisal. While the department will accept a broker's opinion or the listing price of residential real estate, it prefers an appraisal by a licensed appraiser for commercial or farm real estate. Attach supporting documentation to the return for the reported fair market value (i.e., settlement statement, for an arms-length sale, or copy of the appraisal report).

The "appraisal date" is usually the decedent's date of death (Ind. Code § 6-4.1-5-1.5). (Refer to "**Does Indiana have an alternate valuation date for the valuation of assets?**" for further information on the "appraisal date.")

See “**How do I value the decedent’s interest in a business?**” for a discussion of reporting the fair market value of a decedent’s interest in a business.

Should the value of assets on the federal estate tax return be the same as listed for the Indiana IH-6?

Yes. There is a rebuttable presumption that the values should be equal. However, if the property interests were determined for federal estate tax purposes using special-use valuation under 26 U.S.C. § 2032A, then the value of the property interests for Indiana purposes must be the fair market value on the appraisal date (i.e., date of death or alternate valuation date) as required under Ind. Code § 6-4.1-5-1.5. Indiana does not recognize special-use valuations of property interests on the IH-6.

Real Estate

Does an estate report the value of real estate if sold at its gross sales price or net of expenses?

An estate should report the gross sales price on Schedule A or Schedule E, whichever is appropriate, and report the allowable sales expenses on Schedule F.

How should real estate mortgages be reported on the return?

Report the gross fair market value of real estate on Schedule A (or on Schedule E if the real estate was owned with a surviving joint owner, even if that surviving joint owner is the decedent’s spouse). Report the mortgage on Schedule F as a deduction. The mortgage may only be deducted up to the value of the real estate and only up to the value of the decedent’s interest in the real estate if he or she owned a fractional interest (Ind. Code § 6-4.1-3-13(b)(6), (c); 45 Ind. Admin. Code 4.1-3-9)).

Business Interests

How do I value the decedent’s interest in a business?

All of the decedent’s interests in businesses must be valued at the fair market value on the valuation date (for most estates, this will be the date of death) (Ind. Code § 6-4.1-4-1(a)(2)). Fair market value is defined as “the price at which a willing buyer and a willing seller would arrive, after negotiation for a sale, where neither is acting under compulsion…” and where the parties are dealing at arm’s length (45 Ind. Admin. Code 4.1-5-1). Unless there is a sale of the business interests during the administration of the estate, the fair market value of such interests will be determined by “calculating the operational worth of the business” (45 Ind. Admin. Code 4.1-5-4). The regulations state that the preferred method of calculating the operational worth of a business is the capitalization of earnings method, but it goes on to state that if such method is not reasonable, the estate should use any other method that is reasonable (45 Ind. Admin. Code 4.1-5-4(b), (c)). The following factors found in 45 Ind. Admin. Code 4.1-5-4(c) are considered by the department when determining the operational worth of a business:

- The nature of the business
- The economic outlook and condition of the industry
- The earning capacity of the business
- The fair market value of the assets of the business, including good will

The book value of a business is not an acceptable methodology in deriving the fair market value of a business because it does not account for the above factors.

However, the department prefers valuations completed by accredited business valuators. If the estate chooses not to obtain a professional valuation, the estate should:

- Submit statements of net earnings or operating results and balance sheets for the full five years immediately preceding the valuation date for the following property included in the taxable estate: 1) shares of a corporation that are not publicly traded; 2) an interest in a partnership; and 3) an interest in an unincorporated business (45 Ind. Admin. Code 4.1-4-3)
- Include documentation for all of its valuation conclusions and the decedent's ownership interests
- Include all assets of the business
- Justify any discounts taken, including who is applying the discount and why that person is qualified to apply the discount
- Provide all additional information or explanation that will assist the department

Can I use a buy-sell agreement to establish fair market value of a business?

The department does not accept an intervivos buy-sell agreement as conclusive evidence to establish fair market value (45 Ind. Admin. Code 4.1-5-7). However, the estate may use an intervivos buy-sell agreement along with other evidence of the operational worth of the business (as defined in 45 Ind. Admin. Code 4.1-5-4 and discussed above) to establish fair market value.

Present Value Tables

What present value tables are used for valuing future, contingent, defeasible, life interests, or annuities?

Indiana Code § 6-4.1-6-1 mandates the use of the 10% present value tables used by the IRS on Oct. 1, 1988, to value future, contingent, defeasible, life interests, or annuities. Indiana does <u>not</u> use the IRS Section 7520 floating-rate tables.

Deductions/Expenses (For those individuals dying before January 1, 2013)

What deductions can I take on the Indiana inheritance tax return?

The eligible deductions on the Indiana inheritance tax return can be found in Ind. Code § 6-4.1-3-13 for a resident decedent. The deductions for a nonresident decedent are found in Ind. Code § 6-4.1-3-15. The regulations give greater detail to the permitted deductions and are found in 45 Ind. Admin. Code 4.1-3-7 to -13.

What documentation of deductions is required to be filed with the return?
None. But, it is required to have the documentation for the expenses readily available to the department as requested (45 Ind. Admin. Code 4.1-4-3).

Do estates have to attach a funeral statement to the return?

No, a funeral bill is not required. But, it is helpful to the audit process if it is attached to the return as an exhibit.

If an estate owns real estate, what property taxes are deductible?

The estate may only deduct the unpaid property taxes on real estate located in Indiana that is subject to the inheritance tax and is a lien on the decedent's property as of the date of death (Ind. Code § 6-4.1-3-13). In Indiana, real property taxes become a lien on March 1 of each year and become payable in the following calendar year.

What if the mortgage on real estate is more than the date of death value of the property? What do I report on Schedule F?

The mortgage deduction would be limited to the fair market value of the property or the decedent's ownership interest in the fair market value of the property (45 Ind. Admin. Code 4.1-3-9(c)).

How are secured loans reported on the return?

Report the gross fair market value of the asset on Schedule A (or on Schedule E if the asset was owned with a surviving joint owner, even if that surviving joint owner is the decedent's spouse). Report the secured loan on Schedule F as a deduction. The secured loan may only be deducted up to the value of its security (i.e., the asset to which it is connected) (45 Ind. Admin. Code 4.1-3-7(d)).

Allocation of Deductions

How are deductions or expenses to be allocated?

The deductible debts and expenses should all be itemized and totaled on Schedule F of the inheritance tax return. The general pattern is that the non-probate transfers to beneficiaries—e.g., joint assets, POD, and TOD—and the specific bequests under the will or trust are subtracted from the gross estate before deducting the expenses. The debts and expenses are then subtracted from the gross estate to obtain the residue. The residue is distributed according to the will or trust. The only exception to this is if the deductible debts or expenses were actually paid by a transferee because the estate or trust did not have enough liquid assets to pay the deductible debt or expenses; in this case the deductions can be attributed to the transferee that actually paid the expense being deducted. The debts and expenses cannot be allocated between beneficiaries in a manner contrary to law, will, or the trust to eliminate or reduce the inheritance tax. See 45 Ind. Admin. Code 4.1-3-12 and IN Dept. of Revenue v. Estate of Brandeweide, 873 N.E. 2d 209 (Ind. Tax Ct. 2007).

Classes of Transferees/Exemptions/Tax Rates (For those individuals dying before January 1, 2013)

What are the classes of transferees and their personal exemption amounts?

Indiana's inheritance tax is not a tax on the property of a decedent, but on the right to succeed to the decedent's property interests. The tax is imposed as a result of transfers due to a decedent's death. The class of transferee and the exemption amount depends upon the relationship of the transferee to the decedent. There are Class A, Class B, and Class C transferees (Ind. Code § 6-4.1-1-3).

Class A Transferees of a transferor dying before January 1, 2012:

1) Lineal ancestor
2) Lineal descendant
3) Stepchild (whether adopted or not)
4) Lineal descendant of a stepchild (whether the stepchild is adopted or not)
5) Lineal descendant of an *in loco parentis* child of the decedent if the *in loco parentis* relationship began before the child's 15th birthday and continued for at least 10 years before the decedent's death (Ind. Code §6-4.1-1-3(e))

The exemption amount for a Class A transferee is $100,000.

The 2012 General Assembly expanded the definition of Class A transferees to include the spouse, widow, or widower of tranferor's children and stepchildren (daughters- and sons-in-law) for those transferors dying in 2012.

The 2012 General Assembly increased the exemption amount for each Class A transferee from $100,000 to $250,000 for those individuals dying in 2012.

Class B Transferees of a transferor dying before January 1, 2012:

1) Brother or sister
2) Descendant of a brother or sister (i.e., niece or nephew)
3) Spouse, widow, or widower of a child (i.e., son- or daughter-in-law)

The exemption amount for a Class B transferee is $500.

Class C Transferees of a transferor is anyone else (except a surviving spouse, charity, or cemetery association) who is not a Class A or B transferee. The exemption amount for a Class C transferee is $100.

What are the current tax rates for Indiana resident and nonresident decedents?

The net taxable value of property interests transferred by a decedent is determined by taking the total fair market value of the property interests transferred by a decedent to a particular transferee subtracted by the exemptions and allowable deductions. The tax rates are progressive.

The tax rates for a Class A transferee are

Net Taxable Value of Property Transferred	Inheritance Tax
Up to $25,000	1%
$25,001 - $50,000	$250 plus 2% of amount over $25,000
$50,001 - $200,000	$750 plus 3% of amount over $50,000
$200,001 - $300,000	$5,250 plus 4% of amount over $200,000
$300,001 - $500,000	$9,250 plus 5% of amount over $300,000
$500,001 - $700,000	$19,250 plus 6% of amount over $500,000

$700,001 - $1,000,000	$31,250 plus 7% of amount over $700,000
$1,000,001 - $1,500,000	$52,250 plus 8% of amount over $1,000,000
Over $1,500,000	$92,250 plus 10% of amount over $1,500,000

The tax rates for a Class B transferee are

Net Taxable Value of Property Transferred	**Inheritance Tax**
Up to $100,000	7%
$100,001 - $500,000	$7,000 plus 10% of amount over $100,000
$500,001 - $1,000,000	$47,000 plus 12% of amount over $500,000
Over $1,000,000	$107,000 plus 15% of amount over $1,000,000

The tax rates for a Class C transferee are

Net Taxable Value of Property Transferred	**Inheritance Tax**
Up to $100,000.	10%
$100,001 - $1,000,000	$10,000 plus 15% of amount over $100,000
Over $1,000,000	$145,000 plus 20% of amount over $1,000,000

Ind. Code § 6-4.1-5-1

Adopted Child

What class is an adopted child?

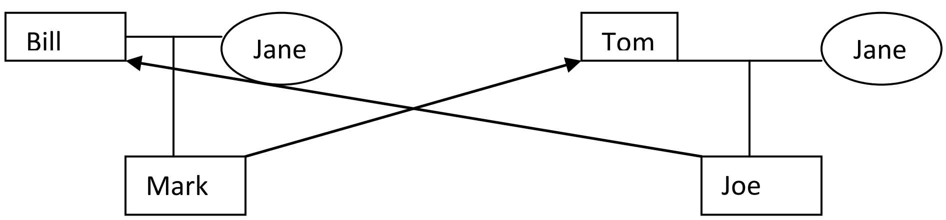
A legally adopted child is to be treated as if the child were the natural child of the child's adopting parent (i.e., a Class A transferee) if the adoption occurred before the person was totally emancipated. However, if the adoption was finalized before July 1, 2004, a person adopted after being totally emancipated is to be treated as the natural child of the adopting parent (i.e., a Class A transferee) (Ind. Code § 6-4.1-1-3).

Stepchildren

Are all stepchildren to the decedent now considered Class A beneficiaries?

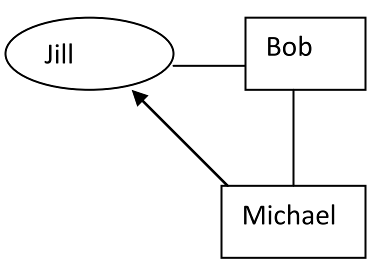
Yes. A child of a decedent's surviving, deceased, or former spouse is a stepchild to the decedent for inheritance tax purposes (Ind. Code § 6-4.1-1-3). See examples below.

<u>Example one</u>
Bill and Jane are married and have a son, Mark. Bill and Jane divorce. Jane remarries Tom and they have a son, Joe.



Mark is a stepchild to Tom. Joe is a stepchild to Bill. Both children fit the definition of a stepchild under Ind. Code § 6-4.1-1-3(f).

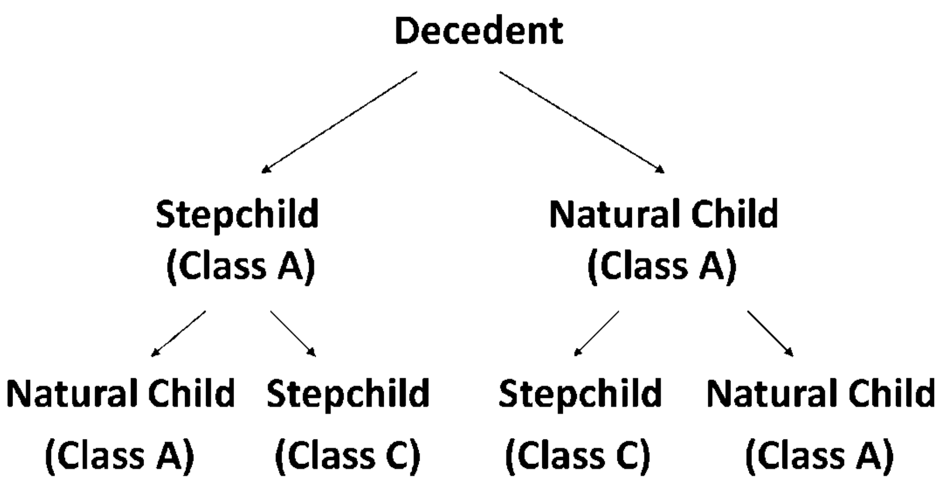
<u>Example two</u>
Jill and Bob marry. Bob has a child from a previous marriage named Michael. Bob dies. Michael is a stepchild to Jill. Michael is a child of a deceased spouse and is not a child of Jill's.



Step-Grandchildren

What class are step-grandchildren?

A step-grandchild may be a Class A or C beneficiary. See the chart below:



Under Ind. Code § 6-4.1-1-3(a)(4), the lineal descendant of a stepchild would be a Class A beneficiary, but a stepchild to either a natural child or stepchild of the decedent would be a Class C beneficiary.

In Loco Parentis

What if there is a relationship of *loco parentis* between the person and the decedent?

If a relationship of *loco parentis* has existed for at least 10 years and if the relationship began before the child's 15th birthday, the child is considered the natural child of the *loco parentis* parent (i.e., a Class A transferee) (Ind. Code § 6-4.1-1-3(e)).

Trust as Beneficiary/Transferee

How do I report a trust as a beneficiary?

The trust itself should never be reported as a beneficiary on the IH-6. In Indiana, the trust is disregarded as an entity for inheritance tax purposes because of the unfavorable tax treatment that would result for assets held in a trust. The department looks to the distribution of assets, and each individual recipient (trust beneficiary) is allowed an exemption according to the transferee class to which he or she belongs and is taxed at the appropriate rate. If the department did not ignore the trust as an entity, a trust would be a Class C beneficiary with a $100 exemption and a tax rate of 10%-20%.

Distributions (For those individuals dying before January 1, 2013)

Disclaimer

Can I use a disclaimer as a post-mortem planning tool?

Yes. A validly executed and delivered disclaimer is effective against the Indiana inheritance tax authority. Indiana courts have determined that because a valid disclaimer relates back to a time before the decedent's death and the interest that is disclaimed passes as if the disclaimant predeceases the decedent, then the disclaimed interest is not "transferred" to the disclaimant at the decedent's death. The disclaimed interest will still be subject to the inheritance tax, but its imposition will be altered by the disclaimer.

45 Ind. Admin. Code 4.1-2-3 (substituting Ind. Code § 32-17.5 for § 32-3-2); Nat'l City Bank of Evansville v. Oldham, 537 N.E.2d 1193, 1196 (Ind. Ct. App. 1989) (citing Matter of Estate of Wisely, 402 N.E.2d 14, 15-16 (Ind. Ct. App. 1980)).

See Indiana Code § 32-17.5 (or its successor) for execution, delivery, and other requirements for a validly executed disclaimer. An individual cannot disclaim an asset that the individual has already accepted (Ind. Code § 32-17.5-8-2) and may only disclaim the portion of a jointly titled asset that is not attributable to the disclaiming individual's own contributions (Ind. Code § 32-17.5-5).

A disclaimer by a surviving joint owner of a bank account (and only a joint bank account) is unnecessary (and may actually not achieve the desired result) if the surviving joint owner can demonstrate that the joint tenancy in the account was established for the convenience of the decedent and that the rights of survivorship were not intended. In this case, the joint bank account will be considered as passing as a part of the decedent's estate and not pursuant to the joint tenancy. Because the joint asset will not be considered as having been transferred to the surviving joint owner, the surviving joint owner does not need to disclaim the property interest in the joint account (45 Ind. Admin. Code 4.1-2-9(c)). Whether the joint bank account was established for the decedent's convenience and the rights of survivorship were not intended by the decedent is usually shown by an affidavit of the surviving joint owner.

Settlement Agreements

What if the transferees enter into a family settlement agreement after the decedent's death? How is the inheritance tax imposed on the decedent's estate then?

Even where transferees have entered into a family settlement agreement, the inheritance tax will be imposed on the transfers outlined in the decedent's will or trust instrument so long as it has not been invalidated or set aside by a court of competent jurisdiction (45 Ind. Admin. Code 4.1-2-2).

Indiana law favors family settlement agreements; however, such agreements do not "impair the rights of…taxing authorities" (Ind. Code §§ 29-1-9-1, Ind. Code § 30-4-7-3). Thus, family settlement agreements, while encouraged, do not change the imposition of the inheritance tax. The court's acceptance or approval of a family settlement agreement does not invalidate or set aside the decedent's will.

Ind. Dep't. of State Revenue v. Estate of Pickerill, 855 N.E.2d 1082 (Ind. Tax Ct. 2006); Estate of McNicholas v. Indiana, 580 N.E.2d 978 (Ind. Ct. App. 1991).

No IH Tax Due – Options (For those individuals dying before January 1, 2013)

What are an estate's options when no inheritance tax is due?

An estate is required to file an inheritance tax return only if inheritance tax is due (Ind. Code § 6-4.1-4-0.5). Thus, if no inheritance tax is due, an estate may, but is not required to, do any of the following:

- File nothing
- File IH-6
- File Affidavit of No Inheritance Tax Due (Ind. Code § 6-4.1-4-0.5(b))
- File Petition/Order of No Inheritance Tax Due (Ind. Code § 6-4.1-5-7, -8)

If the estate chooses to file an Affidavit of No Inheritance Tax Due, it may use the state's form, Form IH-EXEM. If the estate chooses to create its own affidavit, be sure that it includes all of the statutorily required information.

Extensions (For those individuals dying before January 1, 2013)

What options do I have if I am unable to file an inheritance tax return for a resident decedent before the due date?

The inheritance tax return for a resident decedent is required to be filed within nine months after the decedent's date of death (Ind. Code § 6-4.1-4-1). If the Internal Revenue Service has granted an extension for the federal estate tax return, the Indiana inheritance tax return is automatically extended for the same time period (Ind. Code § 6-4.1-4-2). If the estate is not seeking an extension for the 706 or is not required to file a 706, the estate may elect one of the following options under Indiana law if the return cannot be prepared in a timely manner:

- File after the nine months and pay the late filing penalty of $0.50 per day that the return is delinquent or $50.00, whichever is less (Ind. Code § 6-4.1-4-6).
- Petition the appropriate probate court to waive the penalty for the late filing if there is a justifiable excuse for the delay in filing the return (Ind. Code § 6-4.1-4-6).
- Petition the probate court for an extension. Upon finding that an unavoidable delay exists that prevents an inheritance tax return from being timely filed, the court may extend the period for filing an inheritance tax return. The court may grant subsequent extensions upon written motion of the estate (Ind. Code § 6-4.1-4-2).

What if I cannot timely file an inheritance tax return for a nonresident decedent?

An inheritance tax return for a nonresident decedent is also required to be filed within nine months after the decedent's date of death (Ind. Code § 6-4.1-4-7). However, there is no penalty for late filing of a nonresident return because the late filing penalty statute expressly requires only the appropriate probate court to charge the fee. The estate may request an extension for filing a nonresident inheritance tax return from the department if there is an unavoidable delay that prevents the return from being filed timely (45 Ind. Admin. Code 4.1-4-2).

Processing IH-6 Returns (For those individuals dying before January 1, 2013)

Statutory Process

What is the process for filing an inheritance tax return for an Indiana resident?

An inheritance tax return is required to be filed with an Indiana court having probate jurisdiction within nine months of the decedent's death on a form prescribed by the department (Form IH-6) (Ind. Code § 6-4.1-4-1). The probate court is required to refer the inheritance tax return to the county assessor within 10 days after it is filed with the court (Ind. Code § 6-4.1-5-2). The county assessor is also called the county inheritance tax appraiser and has the following statutory duties for each inheritance tax return filed:

- Investigate facts regarding taxable transfers made by the decedent prior to his death,
- Review the return for mistakes and omissions, and
- Appraise each property interest at its fair market value.

(Ind. Code § 6-4.1-5-2)

If the County assessor and probate court agree that a return is "incomplete" the person responsible can be ordered to complete the return and refile it with the court. The court then refers the revised return to the county assessor for review (Ind. Code § 6-4.1-5-5). If everything is in order with the return, the assessor files a report of appraiser with the probate court (Ind. Code § 6-4.1-5-6). The court then determines the fair market value of the property interests being transferred by the decedent and the amount of inheritance tax due. The court enters an order to this effect on the form prescribed by the department (Form IH-9) and has the order spread of record in clerk's office. The order is confidential. The court or the county assessor mails a copy of the order to the department and the county treasurer (Ind. Code §§ 6-4.1-5-10 , -11).

Why do inheritance tax forms have to be on green paper?

The Indiana Supreme Court adopted Administrative Rule 9(G). This rule provides that information in "case records" is excluded from public access and is confidential – e.g., tax records, complete account numbers of assets, loans, bank accounts, credit cards, PINs, etc. Inheritance tax returns and court orders determining inheritance tax (Form IH-9) and Affidavits of No Tax Due (Form IH-EXEM) are confidential because they include Social Security numbers and other confidential information (Ind. Code §§ 6-4.1-12-12 and 6-4.1-5-10). To ensure that such inheritance tax forms are excluded from public access, the Supreme Court requires them to be submitted on light green paper (Indiana Trial Rule 5(G)).

What if the department disagrees with the amount of tax ordered by the probate court?

The probate court's order determining tax (Form IH-9) is a provisional estimate of an estate's tax liability (Ind. Code § 6-4.1-7-6(a)). If, as a result of the department's audit of an inheritance tax return, the department disagrees with the tax ordered by the probate court, the department will send an additional tax due notice to the estate. If the estate agrees and pays the tax, the department will issue a closing letter.

If the estate disagrees with the department that additional tax is owed, the department and the estate can enter into an agreement to compute the tax due under Ind. Code § 6-4.1-6-3 or a compromise agreement under Ind. Code § 6-4.1-12-5. If the department and the estate are unable to reach an agreement to compute the tax due or a compromise agreement, the estate can pay additional tax in protest (to stop the interest running on the unpaid tax) or not pay the additional tax.

If the estate declines to pay the additional tax or pays the tax under protest, the department has the option of requesting the Office of Attorney General to file a petition with the probate court requesting a redetermination of the tax owed within 120 days of the original order determining tax or file a petition for reappraisal within one year of an appraisal issue (Ind. Code § 6-4.1-7-1, -2).

What attachments are mandatory to affix to the IH-6?

The following attachments must be included with the IH-6 when filed:

a) Copy of the decedent's last will and testament.
b) Copy of any trust agreement under which a property interest is transferred due to the decedent's death.
c) Copy of an antenuptial or postnuptial agreement.
d) Copy of a divorce decree that affects the property distribution in the decedent's estate.
e) Form 712 of the Internal Revenue Service, or a similar form, prepared by the insurance company showing the payment of proceeds due to the decedent's death
f) A formal appraisal, if obtained, for any reportable asset.
g) Deeds for real estate held by the decedent as a joint owner or grantor.
h) Statements of net earnings or operating results and balance sheets for the full five years immediately preceding the valuation date for the following property included in the taxable estate:
    (1) Shares of a corporation that are not publicly traded
    (2) An interest in a partnership
    (3) An interest in an unincorporated business
i) All other documentation necessary to clarify a given situation shall be submitted to the department when requested.

(45 Ind. Admin. Code 4.1-4-3)

The department prefers that the following exhibits be attached to the IH-6:

1. Copy of death certificate

2. Reports obtained from third-party services that itemize the date-of-death fair market values of marketable securities such as stocks, bonds, and mutual funds
3. Gift tax returns
4. Funeral bill
5. HUD-1 statement, if real estate is sold
6. Worksheets showing the distribution of assets to beneficiaries and/or allocations of Schedule F deductions among the beneficiaries

Paying IH Tax (For those individuals dying before January 1, 2013)

Where do I pay the tax due?

The inheritance tax should be paid to the treasurer of the county in which the resident decedent was domiciled at the date of death. If the person paying the tax believes that more inheritance tax is due than the amount of tax determined by the court, the person may pay the additional tax and any interest due on the additional tax without court order (Ind. Code § 6-4.1-9-5).

When do I pay the tax due?

The tax is due 12 months after the decedent’s death, and if it’s not paid within that time, interest accrues at the rate of 10% per annum from the date of the decedent’s death until paid (Ind. Code § 6-4.1-9-1).

Can the penalty and interest be waived?

The penalty for filing the return later than nine months after the date of death is $0.50 per day up to a maximum of $50.00 and can be waived by the court upon a showing of justifiable excuse for the late filing (Ind. Code § 6-4.1-4-6).

The interest cannot be waived, but upon a showing to the court of unavoidable delay in determining the amount of tax due (not a delay in paying the tax), the court may reduce the interest rate to 6%. This petition must be filed within 120 days of the date of the court’s order determining inheritance tax while the court retains jurisdiction over the matter (Ind. Code § 6-4.1-9-1).

Is there a discount for early payment?

Yes. If a tax payment is paid within nine months of the date of death, the tax payment will be credited an additional five percent of the payment amount. (Ind. Code § 6-4.1-9-2).

Do I need to file a return or have an order to make a payment?

No, an estimated payment may be made to the treasurer by presenting the payment and providing the decedent's name, date of death, and Social Security number.

Does the department follow the "mailbox rule" for payments and filing of documents?

Yes. The department is required by statute to follow the "mailbox rule" under Ind. Codes §§ 6-8.1-6-2, -3. However, the inheritance tax regulations state that if a payment is mailed the day before the due date, it is considered paid, regardless of when it is received, for purposes of receiving the 5% discount and determining whether it was timely paid (45 Ind. Admin. Codes 4.1-9-2 and -3). As a matter of practice, the department follows the "mailbox rule" as stated in the statute listed above in accepting a payment as paid on the date of mailing or receiving documents.

Nonresident Returns (Form IH-12) (For those individuals dying before January 1, 2013)

What is the procedure for filing a nonresident inheritance tax return?

The department has exclusive jurisdiction of estates of nonresident decedents, assuming the transfer is subject to the Indiana inheritance tax. A Form IH-12 should be filed directly with the department within nine months of the date of the decedent's death. The return shall include a statement of all property interests transferred, indicate the fair market value of each asset, and contain an itemized list of all inheritance tax deductions claimed. The return must also contain a list indicating the name and address of each transferee and the name and address of the attorney or person filing the return. A will must be attached if the decedent died testate. There is nothing to be filed with the probate court regarding a nonresident return (Ind. Code § 6-4.1-4-7).

Which assets should be included on the nonresident return?

The inheritance tax applies to all transfers of Indiana real estate interests owned by a resident, as well as tangible property that has its situs in Indiana (Ind. Code § 6-4.1-2-3).

Which deductions are allowed?

The deductions for nonresidents are limited to taxes, other than federal estate taxes; liens against the property transferred; and administrative expenses such as reasonable attorney fees, personal representative fees, and trustee fees. The expenses must be incurred in administering property subject to tax. Also deductible are claims against the decedent's domiciliary estate that will not be paid from that estate because it is exhausted (45 Ind. Admin. Code 4.1-3-13; Ind. Codes §§ 6-4.1-3-13(b)(9), -15).

How is the tax determined for a nonresident?

The department will determine the inheritance tax due as a result of a nonresident decedent's death and issue an order that states the fair market value of all property interests transferred and the inheritance tax due. The order will be mailed to the personal representative, the trustee, or the attorney for the estate if represented. The determination of tax is deemed final if no appeal is initiated within 90 days after notice is given (Ind. Codes §§ 6-4.1-5-14 to 16).

How can the tax be appealed?

Any person not satisfied with the inheritance tax determination or appraisal by the department may appeal the decision to the Indiana Tax Court. Ind. Code § 6-4.1-7-5 was repealed by implication by the enactment of Ind. Code § 33-3-5-2 (see Blood v. Poindexter, 524 N.E.2d 824 (Ind. Tax Ct. 1988)).

Where is payment of the inheritance tax made for a nonresident?

The tax shall be paid directly to the Inheritance Tax Section of the department, which will issue a receipt. If the payment is made within nine months of the date of death, the estate will be credited with a 5% discount. However, for payments made later than 12 months after the date of death, interest will be charged at the rate of 10% per annum from the date of death until paid. Upon a showing of unavoidable delay (as defined in Ind. Code §6-4.1-9-1), the department may reduce the interest to 6% (Ind. Code §§ 6-4.1-9-1, -2, -4).

How can the estate show that the tax has been determined and paid?

When the department has received full payment of the tax as determined, a Discharge of Determined Liability letter along with two copies of the order marked paid (and any receipts) will be mailed to the attorney or person filing the return. One copy of the order should be filed with the clerk of the circuit court of the county where the real estate is located (Ind. Code § 6-4.1-5-15).

Form 706

Filing 706 with Department (For those individuals dying before January 1, 2013)

What if an estate is required to file a U.S Estate Tax Return (Form 706)?

The estate (personal representative, trustee, or transferee) is required to file a signed copy of Form 706 directly with the department. The estate is also required to file a copy of the final determination of federal estate tax (Letter 627, Letter 914, or decision of federal court) with the department within 30 days after it is received by the estate (Ind. Code § 6-4.1-4-8).

What if an estate is not required to file a U.S Estate Tax Return (Form 706), but chooses to file a "portability" election under Internal Revenue Code Section 2010(c)?

If the estate chooses to file a "portability" election for the unused exclusion lifetime exclusion of a married decedent (DSUE – deceased spousal exclusion amount) under IRC Section 2010(c), the estate (personal representative, trustee, or transferee) is required to file a signed copy of Form 706 directly with the department. The IRS's current practice is to send the estate a Letter 627 if a portability election is filed by the estate. The estate is required to file a copy of the final determination of federal estate tax (Letter 627) with the department within 30 days after it is received by the estate (Ind. Code § 6-4.1-4-8).

Line Changes

What is the potential impact of federal estate tax examination changes ("line changes") by the IRS?

If an estate has filed a U.S. Estate Tax Return (Form 706), there may be changes in the fair market value of the estate's assets or deductions as reported on the 706 due to an audit of the return by the IRS Estate and Gift Tax Section. The IRS audit could result in increases and/or decreases in asset values or deductions.

If such line changes are made by the IRS or a federal court, the estate is required to provide documentation of those changes to the department (Ind. Code § 6-4.1-4-8). The estate is to provide the department with the following forms:

- Report of Estate Tax Examination Changes (Form 1273)
- Adjustments to Taxable Estate (Form 3228)
- Explanation of Items Changed (Form 886-A)

If the line changes result in additional tax, the estate is required to pay the additional tax. Interest on any unpaid tax is 6% commencing 30 days after the estate has received Notice of Final Determination (Letter 627 or IRS Closing Letter) (Ind. Code § 6-4.1-9-1.5). If the estate doesn't pay the additional tax, the department must file a petition with the probate court within 60 days after the department receives a copy of Letter 627 or Letter 914 (if the matter is appealed to the IRS Appeals Office) from the estate.

If line changes result in reduced Indiana inheritance tax, the department will either initiate a refund to the estate or respond to a Claim for a Refund (Form IH-5) filed by the estate.

The IRS may change the numerical designation of its forms and letters, but that will not alter the estate's responsibility to deliver the required information to the department.

What Are the Approved Inheritance Tax Forms Prescribed by the Department? (For those individuals dying before January 1, 2013)

- Form IH-5 Claim for Refund
- Form IH-6 Indiana Inheritance Tax Return (Indiana Resident)
- Form IH-7SF Report of Appraiser
- Form IH-9 Order Determining Inheritance Tax Due
- Form IH-12 Indiana Inheritance Tax Return for a Nonresident Decedent
- Form IH-14 Application for Consent to Transfer
- Form IH-19 Notice of Intended Transfer of Checking Account
- Form IH-28 Power of Attorney
- Form IH-TA Affidavit of Transferee of Trust Property that No Indiana Inheritance or Estate Tax Is Due on the Transfer
- Form IH-EXEM Affidavit of No Inheritance Tax Due

The following forms are the most commonly used, besides the IH-6.

Form IH-14 Application for Consent to Transfer

When is an Application for Consent to Transfer required?

The county assessor or the department must consent to the transfer to another person by a financial holding institution or another person who has possession or control of the decedent's personal property before the transfer takes place (Ind. Code § 6-4.1-8-4, 45 Ind. Admin. Code 4.1-8).

The county assessor's or department's consent to a transfer is evidenced by an Application for Consent to Transfer (Form IH-14) signed by the county assessor or the department. If the payment of inheritance tax is in jeopardy, the county assessor's office may not consent to the transfer of the property until the payment of inheritance tax is no longer in jeopardy (Ind. Code § 6-4.1-8-4).

Consent is required for the transfer of all personal property *except* for the transfer of life insurance proceeds. Consequently, consent is required before joint property may be transferred except when the joint property is a checking account or when the joint owner is a surviving spouse (Ind. Code § 6-4.1-8-4(a), 45 Ind. Admin. Code 4.1-8-1, -2, -3). (When the property is held in a joint checking account but the surviving joint owner is not the decedent's spouse, please use Form IH-19. See below.) Also, consent is required before trust property may be transferred, except in very specific circumstances. See Ind. Code § 6-4.1-8-4(c) for the exceptions. When in doubt whether the statutory requirements have been met in the case of trust property, please obtain the consent of the county assessor or department before transferring the trust property by obtaining an executed IH-14.

How do I get the 20% back that the holding company was ordered to retain?

The county assessor or department may consent to the partial transfer of personal property when *all* of the following requirements are met:
1) The transfer is of joint property that is
2) *not* held in a checking account, and where
3) the surviving joint owner is *not* the decedent's spouse.

If all of the above are met, the county assessor or department may consent to the transfer of 80% of the value of the joint property while withholding its consent to the transfer of the remaining 20% of the joint property until the inheritance tax that is in jeopardy has been paid (45 Ind. Admin. Code 4.1-8-3). The granting of consent for the partial transfer of the decedent's personal property is permitted only in this very limited circumstance.

In order to obtain the consent for the transfer of the remaining value of the joint property, the estate must show the assessor that the payment of the tax is no longer in jeopardy. There are several ways of doing so: 1) make an estimated payment toward the tax due; 2) make a payment for the tax due for the transfer in question; or 3) file an Indiana Inheritance Tax Return, Affidavit of No Inheritance Tax Due, or Petition for Determination that No Inheritance Tax Is Due. (Please note that Indiana statutes do not require that anything be filed unless there is inheritance tax due; however, when dealing with the county assessor who believes the payment of tax may be in jeopardy, it is in the estate's best interest to show affirmatively that the payment of tax is not in jeopardy because no tax is in fact due. See question "**What are an estate's options when no inheritance tax is due?"** for a further discussion.)

When the payment of the inheritance tax resulting from the transfer in question is no longer in jeopardy, the county assessor will consent to the transfer of the remaining joint property. This may require a second Application for Consent to Transfer form to be completed and filed. Please check with the county assessor and the financial holding institution for specific procedures.

Form IH-19 Notice of Intended Transfer of Checking Account

What is the difference between Form IH-14 and Form IH-19, and when is it appropriate to use each form?

Form IH-19 is the Notice of Intended Transfer of Checking Account form and should only be used when the transfer is of a checking account. This form does not require the acceptance of the county assessor or the department, but it serves to put both on notice that a transfer of a checking account is taking place that may be subject to inheritance tax. The estate is not prohibited from using Form IH-14 (Application for Consent to Transfer) in this type of case, and if there is any question as to whether Form IH-19 is the correct form, please use Form IH-14. In all other cases where the consent of the county assessor or the department is required, use Form IH-14.

Form IH-TA Affidavit of Transferee of Trust Property that No Indiana Inheritance or Estate Tax Is Due on the Transfer

When is it appropriate to use an IH-TA form?

The IH-TA is rarely appropriate. It is used in circumstances where IC § 6-4.1-8-4(c) applies—i.e., only when the property being transferred is property held in trust and the transfer of the property is not subject to inheritance tax. For example, the transfer of trust property which has been taxed in a previous estate is property held in a trust that is not subject to inheritance tax in the second estate. The use of the IH-TA form should be considered carefully because it is commonly misused.

Audit Process (For those individuals dying before January 1, 2013)

Confidentiality

Can the state or county discuss the return with the preparing CPA?

The department is permitted to speak to the attorney listed on the bottom of the inheritance tax return; however, the department is prohibited from speaking with a certified public accountant, even if he or she is listed on the inheritance tax return. To permit the department to speak with a certified public accountant preparer, please have the personal representative or trustee complete and sign Form IH-28, Power of Attorney, and file it with the inheritance tax return (Ind. Code § 6-4.1-12-12).

Closing Documents

How long does it typically take to receive a closing letter after I have filed my inheritance tax return?

The department receives and reviews all inheritance tax returns for residents and nonresidents filed in Indiana. Despite this, the department must review and either close the file or challenge the return as filed within 120 days of the date of the probate court's order under Ind. Code § 6-4.1-7-1 or within one year on an appraisal issue or two years if the original appraisal is fraudulently or erroneously made under Ind. Code § 6-4.1-7-2. If the department accepts the return as filed, it will send the countersigned receipt(s) to the estate.

If the department accepts the Indiana inheritance tax return, how will I know?

If the department accepts the IH-6 as filed or with modifications agreed upon with the estate, the department will send a closing letter and the official receipt, countersigned and sealed. Please note that the department does not keep copies of the receipt. The closing letter is a cover letter to return the receipt to the estate (Ind. Code § 6-4.1-9-5).

What is the statute of limitation for challenging the probate court's order?

If a person is dissatisfied with the determination of inheritance tax due made by the probate court, he or she must file a petition for redetermination and rehearing within 120 days from the date of the probate court's order (Ind. Code § 6-4.1-7-1). If a person is dissatisfied with an appraisal approved by the probate court, he or she has one year from the date of the court's order to file a petition for reappraisal (Ind. Code § 6-4.1-7-2). If there is a combination of appraisal and nonappraisal dissatisfaction, the dissatisfied person is bound by the 120-day deadline.

Additional Assets (For those individuals dying before January 1, 2013)

Do we need to file an amended return if we discover an additional asset after filing with the county?

No. If the IH-6 has been filed and the additional asset is discovered within 120 days from the date the order determining inheritance tax due has been signed by the court, the estate may file an amended return with a new order determining inheritance tax because the court retains jurisdiction during this period. Therefore, the department will accept the amended return and new order. Or, the estate may send an amended return and/or letter directly to the department detailing the date of death value of the asset, the distribution to each beneficiary, and the amount of additional tax and interest. However, if the additional asset is found after 120 days from the date the court order is signed, the estate must submit an amended return and letter directly to the department detailing the value of the asset, the distribution to each beneficiary, and the amount of additional tax and interest paid.

Will I have to pay interest on an additional asset?

Yes. Under Indiana Code § 6-4.1-9-1, inheritance tax is due 12 months from the decedent's date of death. Any tax that is not paid prior to this time shall accrue interest at 10% from the date of the decedent's death to the date the payment is made.

If I recover an additional asset, can I petition the appropriate probate court to reduce the interest to 6%?

It depends on whether the asset is discovered within the 120 days after the court signs the original determination of tax. If the additional asset is recovered within 120 days from the date the court signed the original order, the estate may petition the court for a reduction in the interest if an unavoidable delay prevents a determination of the inheritance tax due. The court maintains jurisdiction and can enter an order granting this relief only during this 120-day period from the original order. The estate can also file an amended return during this period reflecting the additional asset, and the court may enter a new order.

However, if the estate discovers the additional asset after the 120-day period after the original order determining inheritance tax due is signed by the court, the estate cannot petition the court to reduce the interest. The jurisdiction of the court has ended and a court determination of the increased tax is not necessary because of Ind. Code § 6-4.1-9-5, so the estate must pay interest at 10% according to Ind. Code § 6-4.1-9-1 (see also Broyles, 457 N.E.2d 250 (Ind. Ct. App. 1983), Ind. Code § 6-4.1-7-1).

Why is an amended return sent to the department and not filed with the court if the Order Determining Inheritance Tax Due was signed more than 120 days ago?

The court retains jurisdiction of the case during the 120 days following the entry of the order. Once this time period expires, the court does not have jurisdiction over the case. However, the legislature provides, in Ind. Code § 6-4.1-9-5(a), that a person who believes that more tax is owed as a result of the decedent's death than that ordered due by a court may pay the additional tax and interest to the county treasurer without obtaining another court determination (see also Broyles, 457 N.E.2d 250 (Ind. Ct. App. 1983), Ind. Code § 6-4.1-7-1).

Refunds (For those individuals dying before January 1, 2013)

Is there a statute of limitation for claiming a refund of inheritance tax paid?

Yes. Under Indiana Code § 6-4.1-10-1, a claim for refund must be filed for tax that was illegally or erroneously collected with the Department of Revenue within the latter of

1) three years from the date tax was paid or,
2) one year from the date the tax is “finally determined.”

In 2013, the inheritance tax refund statute was amended to define “finally determined.” The inheritance tax is “finally determined” when:

- An Indiana probate court issues an order determining tax (Form IH-9) under Ind. Code 6-4.1-5-10 for an Indiana resident; or
- The Department of Revenue issues an order determining tax under Ind. Code 6-4.1-5-16 for a non-resident.

How is a Claim for Refund made by the estate?

The estate must make a claim for refund. It must do so by submitting a Claim for Refund of Inheritance Tax (Form IH-5) ~~or a letter~~ directly to the department identifying the estate and requesting the amount of the refund due to the estate and the specific reasons for the estate believes it is entitled to a refund. Also, the estate should include as part of the claim for refund to the department a revised IH-6 and supporting documents with the computation page and the schedules reflecting the new values. The estate may not file a claim for refund by petitioning the court or filing an amended return with the county, as the statute provides that all claims for refund must be filed with the department of Revenue (Ind. Code § 6-4.1-10-1).