

Kentucky Inheritance Tax

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A Practice Note discussing key aspects of the Kentucky inheritance tax laws. This Practice Note provides an overview of Kentucky's death tax system, explaining that while both an estate and inheritance tax exist in the statutes, only the inheritance tax is currently imposed. It details the types of property transfers that are subject to the tax, including transfers from Kentucky residents and nonresidents with real or tangible personal property in the state. This Note also outlines important exclusions and exemptions for certain transferees including, for example, Class A beneficiaries, and for the transfer of specific assets like life insurance proceeds and particular retirement accounts. Furthermore, this Practice Note addresses the methods for valuing transferred property, including special valuation rules for agricultural and horticultural land, and explains how to calculate the tax due. It provides practical guidance on filing obligations, payment procedures, available deductions, and strategies that counsel can use to help clients reduce or eliminate potential inheritance tax liability through effective estate planning.

Kentucky imposes an inheritance tax on the privilege of receiving property from a decedent, but only on certain transfers and certain recipients. It is important for counsel working with clients residing in Kentucky or having property in Kentucky to understand the Kentucky inheritance tax so that a client's estate plan can include planning for the Kentucky inheritance tax, when necessary. This Practice Note provides an overview of the Kentucky inheritance tax.

Kentucky Death Taxes

Kentucky statute provides for both an estate tax and inheritance tax (KRS 140.010 to 140.991). However, Kentucky has not imposed estate tax since 2005.

Under statute, Kentucky's estate tax is equal to the amount by which the credit for state death taxes allowable under the federal tax law exceeds the inheritance tax, less the discount, if taken by the taxpayer (KRS 140.130(1)). Effective January 1, 2005, federal law no longer treats state death taxes as credit for federal estate taxes, but rather as a deduction (26 U.S.C. § 2058). Therefore, there is no

Kentucky estate tax, although one technically exists under the Kentucky Revised Statutes.

For more information on the federal estate tax, see [Practice Note, Federal Estate Tax](#).

Kentucky Inheritance Tax

Kentucky imposes an inheritance tax ranging from four to 16 percent of the net value of property that passes from a decedent to certain beneficiaries after the decedent's death (see Applicable Rate of Inheritance Tax). The net value of property is the property's fair market value, less expenses (mortgages, liens, or other encumbrances on the property) (KRS 140.010). However, certain assets, certain types of transfers, and certain transfers to certain transferees are exempt from the inheritance tax (see Taxable Transfers).

Therefore, to determine the Kentucky inheritance tax, counsel must:

- Determine whether a specific asset and transfer type is subject to the tax (see Transfers Subject to Kentucky Inheritance Tax and Taxable Transfers).

Kentucky Inheritance Tax

- Determine whether any exclusions apply to the transfer (see Exclusions from the Kentucky Inheritance Tax).
- Value the assets subject to the tax (see Valuation of Transferred Property or Interest).
- Determine deductions and apply to gross estate (see Deductions and Credits).
- Apply the inheritance tax rate to determine the tax (see Applicable Rate of Inheritance Tax).

Once the inheritance tax is determined, counsel must:

- Collect the proportionate shares of inheritance tax from the successors-in-interest to the applicable properties.
- File the inheritance tax return. Pay the inheritance tax. Counsel should recommend submitting payment with the filing of the inheritance tax return to avoid interest and penalties.

Distribution of the estate assets to each successor-in-interest is not allowed until the collection of that person's share of inheritance tax. (See Filing the Inheritance Tax Return and Paying the Inheritance Tax.)

Transfers Subject to Kentucky Inheritance Tax

The Kentucky inheritance tax applies to the transfer at death or, generally, lifetime transfers in contemplation of death of property with a taxable situs in Kentucky (KRS 140.010 to 140.050; see Assets Subject to Inheritance Tax).

Decedent's Residency Status

The Kentucky inheritance tax applies to the property of decedents who were, at death:

- Inhabitants (residents) of Kentucky.
- Nonresidents transferring real or tangible personal property located in Kentucky or intangible property with a Kentucky situs, which property is not taxable elsewhere.

(KRS 140.010.)

Assets Subject to Inheritance Tax

The Kentucky inheritance tax generally applies to the transfer, at death or in contemplation of death, of the following property:

- All real and tangible personal property located within Kentucky and owned by Kentucky residents.
- All tangible personal property owned by Kentucky residents which is located outside of Kentucky and has not acquired a situs in another jurisdiction.
- All intangible personal property belonging to Kentucky except partnership property located in another state which is subject to an inheritance or estate tax in that state.
- All intangible personal property belonging to non-Kentucky residents that has acquired Kentucky business situs.
- All real and tangible personal property located in Kentucky, regardless of the residency of the decedent, which is not taxable in another jurisdiction.

(KRS 140.010.)

Taxable Transfers

The Kentucky inheritance tax applies only to certain types of transfers and property, including:

- Transfers made under the decedent's will or in trust or by intestate succession after a decedent's death (KRS 140.010).
- Property in which the decedent had an interest, at death, as joint tenant (KRS 140.050).
- Contracts payable to another at or after the decedent's death unless substantially equivalent consideration to the amount due under the contract was paid to the decedent during their lifetime (KRS 140.030(1)).
- Lifetime transfers of property or interests for less than full and adequate consideration (lifetime gifts):
 - made in contemplation of the decedent's death similar to a final disposition of distribution of a material part of the decedent's estate without adequate valuable consideration;
 - made within three years of the decedent's death and without adequate valuable consideration;
 - intended to take effect in possession or enjoyment at or after the decedent's death; or
 - in which the decedent retains any dominion over the transferred property during their life.

(KRS 140.020; see Planning to Reduce or Eliminate Inheritance Tax.)

When a transfer was made within three years from the date of death, persons claiming the estate have the burden of overcoming the presumption that the transfer was made in contemplation of death. Otherwise, the question of whether a transfer was made in contemplation of death is a question of fact. (KRS 140.020(2).)

Retaining dominion over transferred property generally includes retaining:

- Any beneficial interest in the transferred property, including the right to possession, enjoyment, or income in that property or the right to designate who has those rights except in the case of a bona fide sale for an adequate and full consideration (KRS 140.020(1)).
- An absolute or conditional power of revocation, including the power to alter, amend, or revoke a beneficiary's interest (for example, the settlor retains dominion over property conveyed in trust in which the settlor has a power of revocation exercisable by will) (KRS 140.020).
- A general power of appointment by will or otherwise, which is a power of appointment that may be exercised in favor of:
 - the individual holding the power;
 - that individual's estate;
 - that individual's creditors; or
 - the creditors of that individual's estate.

(KRS 140.040(1)(a).) A person does not retain dominion or control over property that may be or is transferred under a power of appointment limited by an ascertainable standard or that is exercisable only with another person having a substantial adverse interest in the property (KRS 140.040(1)(b)).

Exclusions from the Kentucky Inheritance Tax

Certain transfers at or in contemplation of death are excluded from the inheritance tax based on:

- The transferee's identity (see Transferees Excluded from Inheritance Tax).
- The type of asset transferred (see Transfers Excluded from Inheritance Tax).

Transferees Excluded from Inheritance Tax

The inheritance tax does not apply to transfers of property to certain family members and other beneficiaries, including:

- The decedent's:
 - spouse;
 - parent;
 - child (by blood or adopted during infancy), stepchild, or child adopted during adulthood but raised by the decedent during infancy;
 - grandchild who is the issue of a child (by blood or adopted during infancy), stepchild, child adopted during adulthood by raised by the decedent during infancy; or
 - brother, sister, or half-brother or sister.

(KRS 140.070(1) and 140.080(1)(c)(4).)

- All transfers:
 - to educational, religious, or other institutions, societies, or associations, whose sole object are to carry on charitable, educational, or religious work, or to a trust for those purposes; or
 - to cities, towns, or public institutions in Kentucky for public purposes.

(KRS 140.060.) However, there is no exemption for these institutional transfers if:

- any officer, member, stockholder or employee receives or may be lawfully entitled to receive any pecuniary profit from the operations, except reasonable compensation for services in effecting one of these purposes or as proper beneficiary of its strictly charitable purpose; or
- if the organization is a pretense for profit or is not in good faith organized or conducted exclusively for one or more of its charitable, educational, religious, or public purposes.

(KRS 140.060.)

Disclaimers

A prospective beneficiary is not required to accept property from a decedent. If the prospective beneficiary instead makes a qualified disclaimer, the

property passes to the successor-in-interest without any transfer tax consequences. No gift is deemed to have been made between the disclaimant and the ultimate beneficiary of the gift (26 U.S.C. § 2518).

Treatment of disclaimers for inheritance tax purposes is similar. If the disclaimant makes a timely and proper disclaimer, the property passes as if the original intended recipient (the disclaimant) predeceased the donor (KRS 394.035(3) and 394.630). The inheritance tax is assessed on the actual recipient of the gift as though that recipient was the initial beneficiary (see Applicable Rate of Inheritance Tax).

For more information about qualified disclaimers for federal gift tax purposes, see [Practice Note, Federal Gift Tax: Disclaimers](#).

Disclaimers in Kentucky must be filed in the District Court of the county where the decedent or (deceased donee of a power's) estate is administered, or would be administered if an estate administration has not been commenced (KRS 394.620(3)). The disclaimer must be filed within nine months from either:

- The decedent's (or deceased donee of the power's) date of death, for a present interest.
- The event that determines the taker of the property or in which the interest is finally ascertained and indefeasibly vested, for a future interest.

(KRS 394.620(1), (2).)

The disclaimer must:

- Describe the property or interest disclaimed.
- Declare the disclaimer and the extent of the disclaimer.
- Be signed by the disclaimant or their legal representative.

(KRS 394.610(2).)

An agent under a power of attorney may only authorize a disclaimer if the power of attorney instrument specifically authorizes it (KRS 394.610(3); see [Standard Document, Durable Power of Attorney \(KY\)](#)). The right to disclaim survives death and may be exercised by the disclaimant's personal representative without authorization of the court having jurisdiction over the disclaimant's estate (KRS 394.610(2)).

Transfers Excluded from Inheritance Tax

Transfers that are excluded from inheritance tax include:

- Life insurance insuring the decedent's life that is payable to a designated beneficiary other than the insured or the insured's estate (KRS 140.030(2)).
- The value of the employer's contributions to an annuity or other payment made to a beneficiary of a deceased employee (other than the personal representative) under:
 - an exempt trust or qualified nontrusted annuity plan as described under 26 U.S.C. §§ 401(a) or 403(a); or
 - a contract purchased by an educational or charitable organization as referred to in 26 U.S.C. § 170(b)(1)(A)(ii) or (vi) of the Internal Revenue Code or a religious organization exempt from tax under 26 U.S.C. § 501(a).i

(KRS 140.063(1), (2).)

- Certain individual retirement accounts, annuities, or bonds under 26 U.S.C. §§ 408(a), (b) or 409(a) (KRS 140.063(3)).
- Annuity payments under an individual retirement account where the annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary (other than the personal representative) for their life or over a period extending for at least 36 months after the decedent's date of death (KRS 140.063(4)).
- Intangible personal property held by or for the benefit of a nonresident decedent in trust by a Kentucky trustee, if:
 - the decedent's resident jurisdiction imposes death taxes; and
 - the personal representative presents evidence that this tax was or will be paid to the other jurisdiction.

(KRS 140.275(1).)

- Any payment:
 - from the federal government to a surviving spouse or heir regarding a decedent's war service; or

- made to a beneficiary of the retired servicemember's family protection plan or survivor benefit plan.

(KRS 140.015.)

- Life insurance proceeds payable under a US government life insurance policy or national service life insurance policy issued by or through the federal government, regardless of whether the proceeds are payable to the decedent's estate or a named beneficiary (KRS 140.030(2)).
- Transfers to Class A Beneficiaries. Class A beneficiaries are the decedent's:
 - surviving spouse;
 - parent;
 - brother, sister, or half-brother or sister;
 - child (by blood or adopted during infancy), stepchild, child adopted during adulthood by raised by the decedent during infancy; or
 - a grandchild who is the issue of a child (by blood or adopted during infancy), stepchild, child adopted during adulthood by raised by the decedent during infancy.

(KRS 140.070 and 140.080(1)(c)(3); see Transferees Excluded from Inheritance Tax.)

- Transfers to Class B beneficiaries for the value of the property transferred that does not exceed \$1,000. Class B beneficiaries are the decedent's:
 - nephew, niece, or half-nephew or niece;
 - daughter-in-law or son-in-law;
 - aunt or uncle; or
 - great-grandchild who is the grandchild of a child (by blood or adopted during infancy), or stepchild.

(KRS 140.070(2) and 140.080(1)(d).)

- Transfers to Class C beneficiaries for the value of the property transferred that does not exceed \$500. Class C beneficiaries are:
 - all individuals who do not qualify as Class A or Class B beneficiaries; or
 - organizations, institutions, societies, associations, cities, towns, or public institutions not exempt under KRS 140.060 (see Transferees Excluded from Inheritance Tax).

(KRS 140.070(3) and 140.080(1)(e).)

Valuation of Transferred Property or Interest

Assets are valued for inheritance tax purposes at the fair cash value (fair market value) as of date of death of the grantor or donor of the property (KRS 140.010; 26 C.F.R. § 20.2031-1(b); see Filing the Inheritance Tax Return and Paying the Inheritance Tax). In Kentucky, the fair cash value of the property is the value of the property as of the date of death without any reduction by reason of taxes, liens, encumbrances, or otherwise (*Lynch v. Kentucky Tax Comm.*, 333 S.W.2d 257, 262 (Ky. 1960)).

However, specific valuation rules apply for inheritance tax purposes:

- In certain situations when the property is held by the decedent with one or more other parties jointly (see Valuation of Property Held Jointly by Decedent and Others).
- If the transfer is of less than an absolute interest or is of a subsequent interest in the property (see Valuation of Less Than Absolute Interest in Property).
- For certain specific types of property (see Special Valuation Methods for Agricultural or Horticultural Land).

Valuation of Property Held Jointly by Decedent and Others

Property as Joint Tenants or Tenants by the Entirety

Kentucky has special inheritance tax valuation rules for property:

- Held as a joint tenancy.
- Held as a tenancy by the entirety.
- Deposited in a bank or other depository in the names of two or more persons that is payable to the survivor or survivors on the death of the other.

For these joint ownership interests, Kentucky deems the survivor's right to immediate ownership or possession and enjoyment of the property on a co-owner's death a transfer of half of the value of the property, or other proper fraction depending on the decedent's percent of ownership. (KRS 140.050.)

Kentucky presumes all property interests of a decedent, placed in these forms of joint ownership

within three years of the decedent's date of death, to be made in contemplation of death (the value of the decedent's interest is rebuttably subject to inheritance tax) (KRS 140.020(2)). However, this presumption does not apply for jointly owned certificates of deposit, for which only the decedent's percent of ownership at death is taxable (KRS 140.020(3)).

Valuation of Less Than Absolute Interest in Property and Subsequent Interests

A less than absolute interest in Kentucky property includes:

- A life estate (also called a life interest).
- An interest for a term of years.
- A contingent or vested remainder.
- An executory or reversionary interest.
- Any other interest that is less than absolute.

(KRS 140.100.) The present value of these interests, which are transferred at or in contemplation of death, is generally subject to inheritance tax (KRS 140.100 and 140.110).

In Kentucky, the value of every future, contingent, or limited estate, income, or interest for inheritance tax purposes is determined by the rules, methods, and standards of mortality and of value prescribed by the appropriate US life mortality tables for ascertaining the value of life estates, annuities, and remainder interests. The rate of interest assessed in computing the present value of all future interests and contingencies is four percent per year. (KRS 140.100(2); see, for example, [Internal Revenue Service, Actuarial Tables](#).)

For estate property that is contingent or defeasible (capable of being made null or void), inheritance tax is levied at the rate that would be applicable on the happening of the most probable contingencies or conditions. If this taxed property ultimately vests in possession in persons taxable at a lower rate, or in a person or a corporation exempt from taxation, then this person may apply to the Kentucky Department of Revenue for a refund of the inheritance tax paid. (KRS 140.110(1).)

Kentucky taxes an estate or interest that can be divested by the act or omission of the legatee or devisee as if there were no possibility of divesting (KRS 140.110(2)).

Special Valuation Methods for Agricultural and Horticultural Land

Kentucky applies special valuation methods for inheritance tax purposes for certain types of property, including:

- Agricultural land, which is any track of land:
 - including all income-producing improvements, of at least ten contiguous acres in area used to produce livestock, livestock products, poultry, poultry products, or the growing of tobacco or crops including timber, or more than one of them;
 - including all income-producing improvements, of at least five contiguous acres in area commercially used for aquaculture; or
 - devoted to and meeting the requirements and qualifications for payments pursuant to agricultural programs under an agreement with the state or federal government.

(KRS 132.010(9) and 140.300(1).)

- Land for horticultural use, which is any tract of land, including all income-producing improvements, of at least five contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants. (KRS 132.010(10) and 140.300(2).)
- Agricultural or horticultural land that is a portion of the assets of a corporation or partnership, which entity is wholly owned by the decedent or by the decedent and qualified persons, where:
 - the balance of the assets of the corporation or partnership is personal property entirely related to the use of agricultural or horticultural land; and
 - where the stock or interest in such entity passes to a qualified person or persons.

(KRS 140.310(2).)

A qualified person is a spouse of the decedent, the children (natural or adopted), the stepchildren of the decedent, or the spouse or descendants of the decedent's children (natural or adopted) or stepchildren, who proposes to devote the real property to agricultural or horticultural purposes for at least five years after the decedent's death (KRS 140.300(5)).

Agricultural or horticultural land may be assessed at its agricultural or horticultural value for inheritance tax

purposes if the land is qualified real estate, passing to a qualified person or persons (KRS 140.310(1)). Qualified real estate is defined as real property:

- That is either agricultural or horticultural land.
- That was used for those purposes for five years before the decedent's death.
- The fair cash value of which exceeds 50 percent of the gross taxable estate for Kentucky inheritance tax purposes.

(KRS 140.300(4).)

If the qualified real estate:

- Is reported for inheritance tax purposes at the agricultural or horticultural value at which it was assessed for *ad valorem* tax purposes, Kentucky presumes that assessment to be its agricultural or horticultural value for inheritance tax purposes.
- Was not reported for inheritance tax purposes at the agricultural or horticultural value for which it was assessed for *ad valorem* tax purposes, then the agricultural or horticultural value is determined under KRS 132.010 to 132.990 and the applicable regulations.

(KRS 140.330.)

The inheritance tax return must include the fair cash (market) value of the qualified real estate along with the qualified real estate's agricultural or horticultural value (KRS 140.340).

If, within five years of the decedent's death, qualified real estate is sold, conveyed, or otherwise transferred ownership, directly or indirectly, to anyone other than another qualified person who is a joint owner, or if the qualified real estate is converted to a use other than its agricultural or horticultural use, then the qualified person is responsible to pay the additional inheritance tax that would have been paid if the fair cash value was used on the inheritance tax return instead, plus interest at the tax rate defined under KRS 131.010(6) (KRS 140.320).

Kentucky does not permit the reduction of the gross estate by more than \$500,000 from the use of this special valuation allowance for agricultural or horticultural qualified real estate (KRS 140.360).

Counsel should carefully review the valuation rules and filing requirements that apply to these types of property if the decedent's estate consists of any of these assets.

Applicable Rate of Inheritance Tax

The inheritance tax rate varies from four percent to sixteen percent depending on:

- The net value of property, considering any special valuation rules that may apply (see Valuation of Transferred Property or Interest).
- Whether the property passes to Class B or Class C beneficiaries. There are different progressive tax rates and exclusion amounts applicable to these beneficiary classes. The exclusion amount for Class B beneficiaries is \$1,000 and for Class C beneficiaries is \$500 of the first \$10,000 of the net value of the asset transferred. (See Transfers Excluded from Inheritance Tax.)

(KRS 140.070 and 140.080(1)(d), (1)(e).) The same inheritance tax rates generally apply to residents and to nonresidents subject to Kentucky inheritance tax, although the distributive share brackets (KRS 140.010 and 140.070; see Decedent's Residency Status).

There is currently no inheritance tax for transfers to Class A beneficiaries (KRS 140.070 and 140.080(1)(c)(4)).

The Kentucky Department of Revenue maintains and publishes a helpful guide explaining the inheritance tax, which includes a table of formulas and instructions on calculating the tax (see [Kentucky Dept. of Revenue: A Guide to Kentucky Inheritance and Estate Taxes](#)). For example, under the Kentucky Department of Revenue's formula table, the inheritance tax on the transfer of an asset worth \$25,000 to the decedent's niece (a Class B beneficiary) would be calculated as follows:

- \$860 plus 6% of the amount over \$20,000 (but less than \$30,000).
- 6% of that \$5,000 in value over the \$20,000 is \$300.
- \$860 plus \$300 results in a tax of \$1,160.

For more detailed information on calculating the Kentucky inheritance tax, see Kentucky Inheritance Tax.

Filing the Inheritance Tax Return and Paying the Inheritance Tax

Filing the Inheritance Tax Return

There are four options for filing inheritance tax returns in Kentucky.

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- **Affidavit of Exemption (Form 92A300).** This affidavit is filed if all taxable assets pass to Class A Beneficiaries and a Federal Estate and Gift Tax Return is not required. In this case, no return needs to be filed. An affidavit of exemption is accepted for the final settlement and closing of the administration of an estate. The affidavit of exemption is filed only with the District Court. A copy should **not** be sent to the Kentucky Department of Revenue.
- **No Tax Due Return (Form 92A201).** This return is filed if all taxable assets pass to Class A Beneficiaries but a federal estate and gift tax return was filed, even if filed just for portability purposes.
- **Inheritance Tax Return (Short Form) (Form 92A205).** This form may be used when:
 - a federal estate tax return is not filed or required to be filed;
 - the assets of the estate consist of ten items or less;
 - no gifts or transfers were made within three years of death without full consideration;
 - no real or personal property was transferred with a retained life interest;
 - the decedent did not possess any power to appoint any real or personal property or have the use of any qualified terminable interest property; and
 - the decedent had not received any real or personal property from another decedent within five years and paid inheritance tax on the property.
- **Inheritance Tax Return (Form 92A200).** This return is required in all other circumstances where assets of the estate pass to taxable beneficiaries or organizations. This return is also required in any case where:
 - assets of the estate pass to exempt beneficiaries or organizations; and
 - a Federal Estate and Gift Tax Return (Form 706) was filed for the estate.

For all real property reported on an inheritance tax return, a Real Estate Valuation Form (Form 92A204) must accompany the return. A separate Form 92A204 must be completed for each piece of real property.

Inheritance tax returns state the property subject to tax and the property values. For a Kentucky resident, the following are to be reported on the return:

- All real property located in Kentucky.
- All tangible personal property, except tangible personal property that has acquired a situs for purposes of taxation outside of Kentucky.
- All intangible personal property except partnership property located in another state that is subject to an inheritance tax in that state.

For a nonresident of Kentucky, the following are to be reported on the return:

- All intangible personal property belonging to the nonresident that has acquired a business situs in Kentucky.
- All real property located in Kentucky, which is not taxable elsewhere.

The inheritance tax must be timely filed and any taxes due timely paid to avoid incurring interest and penalties (see Paying the Inheritance Tax and Distributing the Estate Assets). If the inheritance tax is:

- Paid within nine months after the decedent's death, a discount of five percent is permitted, and no interest is due.
- Paid within nine and 18 months after the decedent's death, no discount is permitted, and no interest is due.
- Not paid within 18 months after the decedent's death, interest is computed from the end of the 18 months until the tax is paid.

(KRS 140.210.) The return should be filed concurrently with payment to avoid the risk of penalties and claim the discount.

For more information on the Kentucky inheritance tax affidavit, returns, and relevant forms, see [Kentucky Dept. of Revenue, Kentucky Inheritance and Estate Tax Forms and Instructions](#).

Paying the Inheritance Tax and Distributing the Estate Assets

A personal representative or trustee holding property subject to Kentucky inheritance tax may not deliver the property until the tax has been collected on it, unless the beneficiary is eligible to and has elected to pay in annual installments (see Paying the Tax in Installments). The personal representative or trustee:

- Collects the taxes due on any land, including a life estate, or the proceeds of life insurance policies,

which are subject to Kentucky inheritance tax from the heirs or devisees entitled the property.

- May, on proper notice as the court with jurisdiction directs, be authorized to sell or divide that property (and sell the necessary portion) if those heirs or devisees refuse or neglect to pay the tax. The personal representative or trustee then deducts the inheritance tax from the sale proceeds and pays the remaining balance to the heir or devisee of the applicable bequest. This is also the case where there is a bequest of an interest in property for less than an estate in fee.

(KRS 140.220 and 140.230.)

Any inheritance tax payment made within:

- Nine months from the decedent's date of death is allowed a five percent discount.
- 18 months from the decedent's date of death may be paid without interest.

(KRS 140.210(1).) The personal representative or trustee must obtain a proper bond for payments not made within 18 months from the decedent's date of death (KRS 140.210(2)). After collecting payment from each beneficiary, the personal representative or trustee generally may distribute that beneficiary's share to the beneficiary, subject to any allowed deductions or credits.

Deductions and Credits

In calculating the value of the distributive shares the following deductions are allowed:

- Debts of the decedent, except debts secured by property outside of Kentucky's tax jurisdiction or debts barred by the statute of limitations.
- Taxes accrued and unpaid, except taxes on property outside of Kentucky's tax jurisdiction.
- Death duties paid in foreign countries.
- Federal estate taxes, in the proportion which the net estate in Kentucky subject to the federal estate taxes bears to the total net estate subject to federal estate taxes.
- Drainage, street, or other special assessments due and unpaid as a lien on the property of the decedent.
- Funeral, monument, and cemetery lot maintenance expenses actually paid, not to exceed a total of \$5,000.

- Fees paid to personal representatives in the amount allowed and paid.
- Costs of administration, including attorneys' fees allowed and paid.

(KRS 140.090.) Deductions for any of the above expenses are applicable *pro rata* to the properties paying the related expense.

Kentucky allows any person to whom property is transferred a credit against the Kentucky inheritance tax, if both:

- The property was transferred to the immediate decedent within five years before the death of the immediate decedent.
- A tax was paid on the prior transfer.

(KRS 140.095(2).)

Paying the Tax in Installments

If a beneficiary's tax liability exceeds \$5,000, the beneficiary may elect to pay the tax in ten equal annual installments. The first installment is due at the filing of the inheritance tax return. The tax deferred is charged with interest at the rate under KRS 131.010(6) beginning 18 months after the decedent's date of death. (KRS 140.222.) This election must be made on [Form 92A928](#) on a timely filed return (see Filing the Inheritance Tax Return).

The ten-year period of limitations for actions to enforce the collection of taxes under KRS 140.160(3) is suspended during the time for deferred payment (KRS 140.222(5)). If the Kentucky Department of Revenue reasonably believes that collection of the tax being paid in installments could be in jeopardy, then the beneficiary electing to pay the tax on an installment basis may be required to post sufficient security for the installment agreement (KRS 140.224).

If a beneficiary elects, in a properly signed and filed writing, to pay the tax in installments, the beneficiary's distributive share may be distributed to the beneficiary on the filing of the tax return, signed election, and payment of the first installment payment. The filing of the election together with the payment of the first installment payment relieves the personal representative or trustee from further liability regarding the tax obligation on the distributive share. (KRS 140.222(3).)

Source of Payment of the Inheritance Tax

The recipient of a transfer subject to inheritance tax is ultimately responsible for paying the inheritance tax on that transfer unless otherwise provided by the decedent's last will and testament or another instrument. The personal representatives, trustees, and beneficiaries of a decedent are also personally liable for inheritance taxes until they are paid, but only to the extent that property from the estate comes into their hands. In no case is a fiduciary liable for a greater sum than passes through the fiduciary's administration. (KRS 140.190.)

If a decedent's will or trust instrument directs that the inheritance tax be paid from the residue of the estate, a bequest of the tax is added to and made part of the distributive share of the beneficiary receiving the specific bequest or devise before residue is distributed. The Financial Tax Section of the Kentucky Department of Revenue can assist with these calculations, if needed. For contact information, see [Kentucky Dept. of Revenue, Tax Area Contact Information](#).

Unless the inheritance tax is made an expense of administration by the decedent's last will and testament or other instrument, the personal representative or trustee may recover the tax paid from the heir, devisee, or other recipient of property (KRS 140.190(2)).

When preparing wills or trust instruments for clients, counsel should discuss the inheritance and estate tax implications with the client, including the client's desired source of payment for the death taxes. Counsel should review and modify the client's estate planning documents to ensure that they comply with the client's desires regarding payment of these taxes.

For more information about reporting and paying the tax, see [Filing the Inheritance Tax Return and Paying the Inheritance Tax](#).

Interest and Penalties

If the inheritance tax is not paid within 18 months following the decedent's death, interest (as defined under KRS 131.010(6)) is computed from the end of the 18 months until the tax is paid (KRS 140.210(1)). There are no provisions in the inheritance tax law to allow the Department of Revenue to waive interest.

Where the personal representative or trustee does not pay the inheritance tax within the 18-month period, they must give bond for the payment of the taxes and interest (KRS 140.210(2)).

Penalties for late filing and late payment may be applied if tax is due and the return is not filed and paid within 18 months from the decedent's date of death. The late filing penalty is two percent of the total tax due for each 30 days or fraction thereof that the payment is late. The maximum penalty is 20 percent of the tax due. The minimum penalty is \$10. (KRS 131.180(1).)

The late payment penalty is generally calculated in the same manner. However, the penalty is not applicable if at least 75 percent of the tax liability has been timely paid. (KRS 131.180(2).) Interest and penalty payments should be made at the time the tax return is filed. The Financial Tax Section of the Kentucky Department of Revenue can assist with computing interest and penalties if needed. For contact information, see [Kentucky Dept. of Revenue, Tax Area Contact Information](#).

The Kentucky Department of Revenue may assess additional penalties for failure to make any required filing or payment or timely responding to a written request for related information (KRS 131.180(3)).

Unlike interest, penalties may be waived if the return was not filed or the tax paid timely due to a reasonable cause (KRS 131.180(3)). Reasonable cause is an event, happening, or circumstance entirely beyond the knowledge or control of a taxpayer who exercised due care and prudence in the filing of a return (KRS 131.010(9)). Kentucky regulations enumerate circumstances which may be reasonable cause, and generally list factors to be considered when evaluating each circumstance, including:

- Erroneous advice by the Department of Revenue.
- Death or serious illness of taxpayer or immediate family member.
- Death or serious illness of taxpayer's tax return preparer.
- Unavoidable absence of the taxpayer.
- Destruction or unavailability of taxpayer records by a catastrophic event.
- Inability to obtain records in the custody of a third party.

- Employee theft or defalcation.
- Undue hardship.
- Human error in certain circumstances.
- Erroneous advice by tax advisor.
- Reliance on substantial legal authority.
- Ignorance of reporting requirements.
- Any other miscellaneous reason the Department of Revenue determines establishes a reasonable cause for noncompliance.

(103 Ky. Admin. Regs. 1:040.)

Appeals

Any interested party may timely appeal (protest):

- The assessment of the inheritance tax or related interest or penalty.
- The allowance or disallowance of deductions.
- Any other matter relating to the inheritance tax.

(KRS 49.220(3) and 131.110(1).) A written protest must be submitted to the Kentucky Department of Revenue within 60 days of the original Notice of Tax Due or the date of the original notification informing the taxpayer of the denial or other issue (KRS 131.110(1)(a)).

The written protest must:

- Fully identify:
 - the dispute;
 - the tax involved;
 - the tax periods affected;
 - all disputed tax notice numbers; and
 - the appropriate account number, Social Security number, or other identification number.
- Provide a supporting statement of the taxpayer's position.

(KRS 131.110(1)(c).)

The statutory period for submitting a written protest cannot be extended. However, if additional time is needed to provide a supporting statement, an extension can be requested if it appears the delay is necessary and unavoidable, and if the request is included in the timely filed written protest (KRS 131.110(1)(c), (2)).

Once the Kentucky Department of Revenue issued a final ruling, the protesting taxpayer can file a written appeal to the Kentucky Claims Commission (KRS 131.110(4)). The Kentucky Claims Commission's ruling may be further appealed to the Kentucky courts. The proper venue is either the circuit court in the county where the protesting taxpayer resides or in Franklin County. (KRS 49.250.)

Refunds

If debts are proved against the decedent's estate after paying specific legacies of the distribution of property from which inheritance tax was deducted or paid, the recipient of the property is entitled to a refund from either:

- The personal representative, if the tax was not yet paid.
- The Department of Revenue, if the tax was paid.

(KRS 140.290.)

Planning to Reduce or Eliminate Inheritance Tax

With a basic understanding of the Kentucky inheritance tax, counsel can employ strategies to reduce or defer a client's potential inheritance tax liability. The most common techniques for reducing the inheritance tax include:

- For married clients, deferring the inheritance tax until the death of the surviving spouse by giving the decedent's property to the surviving spouse or to a trust solely for the surviving spouse's benefit.
- Ensuring pay-on-death accounts have exempt individuals named as beneficiaries. For example, naming a sibling as a beneficiary of a certificate of deposit exempts the account from inheritance tax. However, naming a niece or nephew as beneficiary does not exempt the account from inheritance tax. (See Transferees Excluded from Inheritance Tax.)
- Designating beneficiaries subject to inheritance tax to receive inheritance tax-exempt assets, such as retirement accounts or life insurance proceeds (see Transfers Excluded from Inheritance Tax). In this event, counsel should take care to advise the client of the inherited retirement account rules, depending on the type of retirement account

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(see [Practice Note, Estate Planning with See-Through Trusts for Retirement Accounts: Overview: 2024 Final Regulations and Retirement Accounts](#)).

- Making lifetime gifts to reduce transfers at death. Counsel must be mindful that gifts made within three years from the date of the decedent's

death are part of the taxable estate, if the gift per recipient is greater than the allotted exemption (see [Taxable Transfers](#)).

Providing for charitable gifts in a decedent's estate plan (see [Transferees Excluded from Inheritance Tax](#)).

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