



State of West Virginia

Charleston 5

DONALD C. CARMAN
STATE TAX COMMISSIONER

February 28, 1961

Inheritance I
" II

The Honorable Joe F. Burdett
Secretary of State
State Capitol
Charleston 5, West Virginia

Dear Mr. Burdett:

Enclosed herewith are two certified copies each of Inheritance Tax Regulations IT-1 and IT-2.

These regulations have been adopted by the Office of the State Tax Commissioner and are submitted to you in accordance with the provisions of Chapter 5, Article 2, Section 3 of the West Virginia Code in order that they may become effective April 1, 1961.

Very truly yours,

Donald C. Carman
State Tax Commissioner

DCC:mk


Enclosures - 4

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of West Virginia FEB 29 1961
JOE F. BURDETT
SECRETARY OF STATE

February 28, 1961

I, Donald C. Carman, State Tax Commissioner, do hereby certify that the attached documents, designated West Virginia Inheritance Tax Regulation IT-1 and IT-2 are true copies of the regulations bearing the same titles and numbers and issued by the State Tax Commissioner in accordance with Chapter 5, Article 2, Section 3 of the Official Code of West Virginia of 1931, as amended.

Tests:


Donald C. Carman
State Tax Commissioner

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT:

Taken, subscribed and sworn to before me this
28th day of February, 1961.



My Commission expires March 12, 1962.

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WEST VIRGINIA INHERITANCE TAX
REGULATION IT-1

Deduction of Federal Estate Tax

[Applicable with respect to decedents
dying on or after March 6, 1959]

.1 In general. With respect to decedents dying on or after March 6, 1959, where a decedent dies a resident of West Virginia, a deduction is allowed for Federal estate tax paid in determining the inheritance tax. The amount of the deduction is the Federal estate tax paid, to the extent that, by reason of applicable State or Federal law, the estate tax is properly payable by, and the ultimate legal incidence of the estate tax is upon, the decedent's probate estate or upon the recipient or holder of other property subject to the inheritance tax. In the absence of any direction to the contrary in the decedent's will or other written instrument, where, under applicable State or Federal law the executor or administrator of the decedent's estate or any other person is entitled to reimbursement from any person receiving or holding property passing by reason of the decedent's death for Federal estate tax paid with respect to such property, no deduction is allowed to the extent of such reimbursement unless the amount with respect to which such right of reimbursement exists is uncollectible and such right is therefore ineffective. The Commissioner will consider any such right of reimbursement effective unless the executor, administrator or other person having such right furnishes the Commissioner with satisfactory evidence of the uncollectibility of all or a part of the amount to which such right of reimbursement exists.

.2 Where all property subject to Federal estate tax is also subject to inheritance tax. Where all property subject to Federal estate tax is also subject to the inheritance tax, the full amount of the estate tax is allowed as a deduction for inheritance tax purposes.

Example 1. Decedent died intestate April 1, 1959. The value of all property included in his estate for both

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Federal estate tax and inheritance tax purposes was \$100,000. An estate tax of \$2,000 was paid by his administrator. The \$2,000 is deductible for inheritance tax purposes.

Example 2. Decedent died testate April 1, 1959. His will, after making several specific bequests, directed his executor to pay out of his residuary estate all State and Federal taxes imposed by reason of his death. All property subject to Federal estate tax was also subject to inheritance tax. The executor paid an estate tax in the amount of \$12,000. The \$12,000 is deductible for inheritance tax purposes.

.3 Where part of the property subject to Federal estate tax is not subject to inheritance tax. (a) In general. Federal estate tax paid is allowed as a deduction in determining the inheritance tax except where the person paying the estate tax has an effective right of reimbursement (whether exercised or not) pursuant to State or Federal law or under the decedent's will. The amount of the deduction for Federal estate tax depends, in each case, upon the ultimate legal incidence of the estate tax. No deduction is allowed for that portion of Federal estate tax paid with respect to property which is not subject to inheritance tax where the person paying such portion of estate tax has an effective right of reimbursement therefor (whether exercised or not). However, the deduction is allowed to the extent that the person paying such portion of estate tax cannot recover the amount to which he would otherwise be entitled by reason of such right of reimbursement.

(b) Where decedent dies intestate or where there is no direction by will or otherwise respecting payment of Federal estate tax. Where the decedent dies intestate or where the will or other written instrument contains no direction with respect to the payment of Federal estate tax, the portion of estate tax which is attributable to property not subject to inheritance tax is deductible to the extent that the person paying the estate tax cannot recover the amount thereof from the person receiving or holding such property. The following examples illustrate this provision:

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Example 1. The decedent died intestate April 1, 1959. Part of the property subject to Federal estate tax is not subject to inheritance tax. The administrator paid the Federal estate tax in the amount of \$15,000. Of this amount, \$1,000 was attributable to property not subject to inheritance tax. The administrator establishes, to the satisfaction of the Commissioner, that he cannot recover such amount from the recipient or holder of the property. The entire estate tax, \$15,000, is deductible in determining the amount subject to inheritance tax.

Example 2. The facts are the same as in Example 1, except that the administrator could recover the portion of estate tax which is attributable to property not subject to inheritance tax. In this case the deduction is limited to \$14,000.

(c) Where decedent dies testate and his will or other written instrument contains a direction for the payment of Federal estate tax. Where the decedent's will or other written instrument directs his executor or other person to pay the Federal estate tax out of property subject to inheritance tax, the entire amount of estate tax paid is allowed as a deduction for inheritance tax purposes. In computing the inheritance tax, such amount is first deducted from the value of such property before the applicable rate of tax is applied. The following examples illustrate this provision:

Example 1. Decedent died testate April 1, 1959. The value of all property included in his estate for estate tax purposes amounted to \$100,000. Only part of this property is subject to inheritance tax. The decedent's will directs that Blackacre, a farm owned by decedent in Marion County, West Virginia, shall be sold and the proceeds used to pay the estate tax. Blackacre was sold for an amount in excess of the amount of the estate tax. The entire amount of the estate tax paid is deductible.

Example 2. Decedent died testate April 1, 1959. His gross estate for Federal estate tax

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purposes consisted of life insurance proceeds payable to his wife in the amount of \$100,000, and stocks having a value of \$200,000. He bequeathed \$10,000 to his son. The will directed the executor to pay out of the residuary estate all inheritance and estate taxes imposed by reason of his death, and further directed that no part of any such taxes so paid should be deducted from any bequest, or collected from or paid by any other person (including, but not limited to, any person who is a beneficiary of insurance on his life), by way of reimbursement, proration, apportionment or otherwise. The balance of the residuary estate was bequeathed to decedent's wife. The entire Federal estate tax paid is deductible.

.4 Where Federal estate tax valuation is different from inheritance tax valuation of the same property. The amount of Federal estate tax deductible for inheritance tax purposes is the amount actually paid or payable, without regard to the valuation of such property for Federal estate tax purposes.

Example. The decedent died April 1, 1959. The fair market value at the date of his death of all property subject both to Federal estate tax and inheritance tax was \$100,000. On April 1, 1960, the alternate valuation date for estate tax purposes, the value was \$75,000. The alternate valuation date was elected by the executor. The estate tax amounted to \$2,000. Only \$2,000 will be allowed as a deduction in determining the value of property subject to the inheritance tax.

.5 Information required to support deduction. To facilitate audit of the deduction claimed for Federal estate tax paid, the executor or administrator shall file with the State Tax Commissioner, at the time of filing of the Federal return with the Internal Revenue Service, either (a) a copy of the Federal estate tax return, or (b) a detailed reconciliation of any differences between the property and deductions reported for Federal estate tax purposes and those reported for West Virginia inheritance tax purposes. If any refund or additional payment of Federal estate tax is made by or to the Internal Revenue Service, the person receiving or paying such amount shall give

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the Commissioner written notice thereof within thirty (30) days after receipt or payment of such amount.

.6 Effective date. This regulation shall apply with respect to estates of decedents dying on or after March 6, 1959 (the effective date of Chapter 44, Article 2, Section 16a, West Virginia Code).

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of West Virginia

FEB 29 1964

JOE F. BURDETT
SECRETARY OF STATE