

A Guide to Kentucky Inheritance and Estate Taxes

GENERAL INFORMATION

Kentucky Department of Revenue



The purpose of this booklet is to help achieve the mission of the Kentucky Department of Revenue by offering general information concerning the Kentucky inheritance and estate tax.

**Kentucky Department of Revenue
Mission Statement**

As part of the Finance and Administration Cabinet, the mission of the Kentucky Department of Revenue is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens.

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The Kentucky Department of Revenue does not discriminate on the basis of race, color, national origin, sex, age, religion, disability, sexual orientation, gender identity, veteran status, genetic information or ancestry in employment or the provision of services.

If you have a question concerning any information contained in this booklet, or if you have any questions pertaining to a technical issue, please contact the **Financial Tax Section, Kentucky Department of Revenue, Station 61, 501 High Street, Frankfort, Kentucky 40601-2103 or (502) 564-4810.**

INTRODUCTION

Kentucky has two death taxes.

Inheritance Tax

The Kentucky inheritance tax is a tax on a beneficiary's right to receive property from a deceased person. The amount of the inheritance tax depends on the relationship of the beneficiary to the deceased person and the value of the property. Most of the time, the closer the relationship the greater the exemption and the smaller the tax rate. All property belonging to a resident of Kentucky is subject to the tax except for real estate located in another state. Also, real estate and personal property located in Kentucky and owned by a nonresident is subject to being taxed.

If the inheritance tax is paid within nine months of date of decedent's death, a 5 percent discount is allowed. The tax due should be paid when the return is filed. However, if the beneficiary's net inheritance tax liability exceeds \$5,000 and the return is filed timely, an election can be made to pay the tax in 10 equal annual installments. The first installment is due at the time the return is filed. The portion of the tax deferred is charged with interest at the rate established by law beginning 18 months after the date of death.

There are three classes of beneficiaries: Class A, Class B, and Class C.

Class A beneficiaries include:

surviving spouse, parent, child, grandchild, brother, sister, half-brother, and half-sister

If the date of death is after June 30, 1998, all Class A beneficiaries are exempt from paying Kentucky inheritance tax.

Class B beneficiaries include:

niece, nephew, half-niece, half-nephew, daughter-in-law, son-in-law, aunt, uncle, great-grandchild

Note: nieces and nephews by marriage and great-nieces and great-nephews are Class C beneficiaries.

Class B beneficiaries receive a \$1,000 exemption and the tax rate is 4 percent to 16 percent. *See tax chart on page 6.*

Class C beneficiaries include all persons not included in Class A or Class B. Cousins are considered Class C beneficiaries. Class C beneficiaries receive a \$500 exemption and the tax rate is 6 percent to 16 percent. *See tax chart page 6.*

Estate Tax

Since January 1, 2005, there has been no Kentucky estate tax.

The American Taxpayer Relief Act was signed into law on January 2, 2013 and permanently extends the deduction for state estate taxes on the Federal 706. Before 2005, a credit was allowed against the federal estate tax for state estate, inheritance, legacy, or succession taxes. The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) repealed the state death tax credit for decedents dying after 2004 and replaced the credit with a deduction. Kentucky estate tax is equal to the amount by which the credits for state death taxes allowable under the federal tax law exceeds the inheritance tax, less the discount, if taken by the taxpayer. Since state death taxes are no longer treated as a credit for federal estate taxes, there is no Kentucky estate tax.

For answers to questions pertaining to the filing of a Federal Estate and Gift Tax Return, you can call the IRS at (800) 829-1040.

AFFIDAVIT OF EXEMPTION

On June 18, 1999, the Kentucky Department of Revenue sent a memorandum to the District Judges in the Commonwealth of Kentucky requesting that an Affidavit of Exemption be accepted in place of an Inheritance and Estate Tax Acceptance Letter for final settlement and closing of the administration of an estate. The affidavit should be used only when the entire estate passes to nontaxable beneficiaries and a United States Estate and Gift Tax Return is not required to be filed under federal law and applicable regulations.

Using this form will eliminate expending time and money for the preparation and review of Inheritance and Estate Tax Returns. The Affidavit of Exemption should ease the administration of estates that do not owe any Kentucky death tax and are not required to file a Federal Estate and Gift Tax Return. If you have questions, contact Financial Tax Section, (502) 564-4810.

If an Affidavit of Exemption is submitted to the Court, **do not** send a copy of the affidavit to the Kentucky Department of Revenue.

AFFIDAVIT OF EXEMPTION

Affiant _____, being first duly sworn, states that he/she is fiduciary or beneficiary of the estate of _____, who died on the _____ day of _____, _____, a resident of _____ County, Kentucky.

Affiant states that all assets of the estate pass to exempt beneficiaries pursuant to Kentucky Revised Statute 140.080* or exempt organizations pursuant to Kentucky Revised Statute 140.060** either by virtue of the decedent's will, the intestate laws of this state, or by contract (survivorship, payable on death, trust, etc.).

Affiant further states that a Kentucky Inheritance Tax Return will not be filed since no death tax is due the state and a Federal Estate and Gift Tax Return (Form 706) is not required to be filed because the gross estate is less than the required amount set out in Section 2010(c) of the Internal Revenue Code. This affidavit is being submitted to satisfy the requirements of Kentucky Revised Statute 395.605.

Signature

Witness my hand this _____ day of _____, _____.

Sworn and subscribed to before me by _____

this _____ day of _____, _____.

Notary Public

My commission expires _____

*Exempt beneficiaries under KRS 140.080 include spouse, children, stepchildren, grandchildren, parent, brother, and sister.

**Exempt organizations include educational, religious or other institutions, societies, or associations, whose sole purpose is to carry on charitable, educational, or religious work. Also, cities, towns or public institutions in this state qualify as exempt organizations provided that any transfer to such an organization is for public purposes.

FILING AND PAYMENT INFORMATION

EFFECTIVE July 1, 1998

A tax return must ***only*** be filed by the personal representative when any part of the estate passes to taxable beneficiaries or a Federal Estate and Gift Tax Return is required to be filed.

If all taxable assets pass to exempt beneficiaries, and a Federal Estate and Gift Tax Return is not required, an Affidavit of Exemption will be accepted by the court for final settlement and closing of the administration of an estate. **It is not necessary to file a No Tax Due Inheritance Tax Return with the Kentucky Department of Revenue.** If an Affidavit of Exemption is submitted to the Court, **do not** send a copy of the affidavit to the Kentucky Department of Revenue.

A copy of the Affidavit of Exemption and tax returns can be obtained from the Financial Tax Section, Kentucky Department of Revenue, Station 61, 501 High Street, Frankfort, Kentucky 40601-2103, or by calling (502) 564-4810, or from the taxpayer service center in your area. See inside back cover for a listing of these centers. They can also be downloaded from our website at revenue.ky.gov/forms/curhrfrms.htm

If taxes are due, when must the forms be filed?

If taxes are due, the return must be filed within 18 months from the date of the decedent's death. If the tax due is not paid within 18 months of death, interest and perhaps penalties are due. Filing the tax return should not be postponed due to the delay in receiving the federal estate tax audit or closing letter or because the real estate is being sold.

INHERITANCE TAX TABLE

FOR ESTATES OF DECEDENTS WHO WERE RESIDENTS OF KENTUCKY

(APPLICABLE FOR DATES OF DEATH ON OR AFTER JULY 1, 1998)

CLASS A — The following list of beneficiaries are exempt from paying inheritance tax.

- (1) Surviving spouse, parent
- (2) Child (adult or infant)
child by blood, stepchild, child adopted during infancy, or a child adopted during adulthood who was reared by decedent during infancy
- (3) Grandchild
issue of child by blood, stepchild, child adopted during infancy, or of a child adopted during adulthood who was reared by decedent during infancy
- (4) Brother, sister (whole or half)

DISTRIBUTIVE SHARE BRACKETS

CLASSIFICATION OF BENEFICIARY	\$500 or less	\$500- \$1,000	\$1,000- \$10,000	\$10,000- \$20,000	\$20,000- \$30,000	\$30,000- \$45,000	\$45,000- \$60,000	\$60,000- \$100,000	\$100,000- \$200,000	\$200,000- and over
CLASS B *Nephew, niece, half-nephew, half-niece, daughter-in-law, son-in-law, aunt, uncle, or great-grandchild who is grandchild of child by blood, stepchild or child adopted during infancy .	0	0	4% of Amt. over \$1,000	\$360 + 5% of Amt. over \$10,000	\$860 + 6% of Amt. over \$20,000	\$1,460 + 8% of Amt. over \$30,000	\$2,660 + 10% of Amt. over \$45,000	\$4,160 + 12% of Amt. over \$60,000	\$8,960 + 14% of Amt. over \$100,000	\$22,960 + 16% of Amt. over \$200,000
	Exemption \$1,000									
CLASS C All persons not included in Classes A or B and educational, religious, or other institutions, societies or associations, or public institutions not exempted by KRS 140.060	0	6% of Amt. over \$500	\$30 + 6% of Amt. over \$1,000	\$570 + 8% of Amt. over \$10,000	\$1,370 + 10% of Amt. over \$20,000	\$2,370 + 12% of Amt. over \$30,000	\$4,170 + 14% of Amt. over \$45,000	\$6,270 + 16% of Amt. over \$60,000	\$12,670 + 16% of Amt. over \$100,000	\$28,670 + 16% of Amt. over \$200,000
	Exemption \$500									

* Nephews and nieces by marriage and great-nephews and great-nieces are Class C beneficiaries.

INSTRUCTIONS FOR USING INHERITANCE TAX TABLE ABOVE

- A. Compute each beneficiary's tax separately.
- B. **Do not deduct the beneficiary's exemption from the distributive share. The tax shown in the table for each distributive share bracket automatically applies the allowable exemption.**
- C. Determine the proper classification of the beneficiary at the left of the table.
- D. Follow the tax table across to distributive share bracket at the top of the table that includes the distributive share of that beneficiary.
- E. The tax applicable to that beneficiary's distributive share is the amount shown **plus** the designated percentage of the amount by which the distributive share exceeds the base of the distributive share bracket.

If tax is due, what must be included on the return?

In general, all real and personal property in which the decedent owned or has an interest must be included on the tax return.

Example of taxable property:

Real estate
Cash
Bank accounts even if located outside of Kentucky
Certificates of deposit
Money
Stock, bonds
Life insurance payable to the insured or to the estate
Annuities
Debt due the decedent
Unpaid balance of mortgages, notes
Household goods
Livestock
Growing crops
Farm machinery
Automobiles
Income tax refunds
Boats, travel trailers
Royalties
Jewelry
Antiques

How must property included on the tax return be valued?

Most of the time all real and personal property must be reported at its fair cash value on the date of decedent's death. Under certain conditions when real estate passes to a son-in-law or a daughter-in-law the real estate can be valued at its agricultural or horticultural value. Since special rules apply, for more information please contact the Financial Tax Section, Kentucky Department of Revenue, Sta. 61, 501 High Street, Frankfort, KY 40601-2103, or call (502) 564-4810.

What about gifts made before death? Are they taxable?

Any gift made within three years of death is subject to being taxed unless the gift was made for a living reason and not in contemplation of death.

If a tax return has to be filed, what deductions are allowed in the Kentucky Inheritance Tax Return?

Funeral expenses up to \$5,000
Attorney's fees
Personal representative commissions
Debts and taxes owed by the decedent
Real property taxes
Mortgages

If the decedent was a resident of Kentucky, is property located outside of the state taxable?

If the decedent was a resident of Kentucky, all intangible property located outside of Kentucky is taxable. Under certain conditions partnership property located in another state is taxable. Real estate is taxable in the state where it is located. So, if a Kentucky resident owned real estate in another state, that real estate is not taxable for Kentucky inheritance tax purposes. If a Kentucky nonresident owned real estate in Kentucky, then that property is subject to Kentucky inheritance taxes.

How are assets distributed?

When a person dies, real and personal property may pass by title, under the terms of the will, or by the laws of Kentucky. Survivorship property and property payable on death passes to the surviving co-owner shown on the deed or instrument, unless a disclaimer was filed, and not by the terms of the will or by the laws of intestate succession. When a person dies with a will, distribution of the estate is made according to the will, unless the will is renounced by the surviving spouse or a disclaimer is filed. If the will is renounced, the surviving spouse receives one-third of the real property and one-half of surplus personalty. The law provides that when a person dies without a will, one half of the estate, after funeral expenses, debts, and cost of administration are paid, goes to the surviving spouse and one-half descends as follows (if there is no surviving spouse, the whole estate descends):

1. to his children and their descendants (descendants take the share of their deceased parents); *if there are none,*
2. to his father and mother; if one is deceased, to the survivor; *if there is no father or mother,*
3. to his brothers and sisters and their descendants; (half-brothers and half-sisters and their descendants inherit only one-half as much as those of the whole blood); *if none,*
4. to the husband or wife of the intestate; *if none,*
5. one share shall pass to the paternal and the other to the maternal kindred in the following order:
 - (a) the grandfather and grandmother equally, if one is deceased, it shall go to the survivor; *if both are deceased,*
 - (b) to the uncles and aunts and their descendants; *if there are none,*
 - (c) to the great-grandfathers and great-grandmothers; *if none,*
 - (d) to the brothers and sisters of the grandfathers and grandmothers; and
6. if there is no kindred to one of the parents as described in (5), the whole descends to the kindred of the other. If there is neither paternal nor maternal kindred, the whole descends to the kindred of the spouse.

What are the exemptions, if the decedent was a nonresident of Kentucky?

The exemption for a beneficiary of a nonresident decedent's estate is prorated based on the exemption of a resident decedent and is in the proportion to the net value of the property subject to tax in Kentucky before federal estate taxes to the total property transferred by the decedent.

DEFINITIONS

Acceptance Letter—A form letter issued by the Department of Revenue as proof that the Inheritance and Estate Tax Return has been filed, the examination has been completed, and that all taxes due have been paid.

Administration—The collection of a decedent's assets, the payment of his/her debts, and the distribution of any remaining assets.

Administrator/Administratrix—A person appointed by the court to administer the assets and liabilities of a decedent.

Beneficiary—A person who is lawfully entitled to the proceeds or property of an estate.

Bequest—A gift of property by will.

Decedent—A person who has died.

Descendant—A person who is an offspring, however remote, of a certain ancestor.

Distribution—The apportionment and disposition, by authority of a court, of the balance of an estate's personal property after payment of debts and costs.

Dower/Curtesy—The surviving spouse's (husband or wife) interest in the deceased spouse's estate who died without a will.

Estate—The property of a person; often a decedent's property in the process of administration.

Estate Tax (Kentucky)—The amount by which the allowable federal state death tax credit exceeds the Kentucky inheritance tax. As of January 1, 2005, there is no Kentucky Estate Tax.

Executor/Executrix—A person named in a will to take charge of the deceased's estate and administer or dispose of it as directed in the will.

Fiduciary—A person or institution who legally manages money or property for another.

Gift—A lifetime transfer of property from one individual to another without full payment.

Gift in Contemplation of Death—A lifetime gift made in expectation of the death. The thought of death prompted the gift. Any gift made within three years of death is considered to have been made in contemplation of death unless proof is furnished to the contrary.

Heir—One who inherits or is entitled, by law or by terms of the will, to inherit the estate of another.

Inheritance—The property received from a deceased person, by law or by will.

Inheritance Tax—A tax based on the right to receive property from a decedent's estate. The amount of tax is based on the beneficiary's share and relationship to the decedent.

Intestate—A person who is said to die intestate when he dies without a will, or dies without leaving anything to testify what his wishes were with respect to the disposal of his property after his death.

Joint Tenant With Right of Survivorship—A person(s) becomes entitled to property by reason of having survived another person who had an interest in the property.

Per Capita—If the beneficiaries are to share in a distribution “per capita,” then all of the living members of the identified group will receive an equal share. However, if a member of the identified group is deceased, then a share won’t be created for the deceased member and all of the shares of the other members will be increased accordingly.

Per Stirpes—If the beneficiaries are to share in a distribution “per Stirpes,” then the living member in the class of beneficiaries who is closest in relationship to the person making the distribution will receive an equal share. However, if a member in the class of beneficiaries who is closest in relationship to the person making the distribution is deceased and survived by any descendants, then that deceased beneficiary’s descendants will take “by representation” what their deceased parent would have taken.

Personal Representative—A person appointed by district court who succeeds in title to the decedent’s probate estate and has the power and duty to settle and distribute the estate as required by law.

Probate—A formal, legal proving of a will and its acceptance by the court having jurisdiction over the administration of estates. This term also includes all matters and proceedings pertaining to administration of estates, including intestate estates, guardianships, etc.

Tenant in Common—A form of ownership whereby each owner holds an undivided interest in the property. When one owner dies, his share of the property is included in his estate rather than becoming the property of the other co-owner.

Testate—Having made a will prior to death.

Trust—A right of property, real or personal, held by one party for the benefit of another. Any arrangement whereby property is transferred with intention that it be administered for another’s benefit.

Will—A document prepared by a natural person in contemplation of death and containing instructions for the disposition of his property.

Every effort and care has been taken in the preparation of this booklet. However, the possibility of mechanical and/or human error does exist.

In the event that any information in this booklet is later determined to be in error, this booklet cannot be used by taxpayers in supporting a specific position or issue before the Kentucky Department of Revenue, as it does not have the statutory or regulatory authority. This booklet does not address technical issues.

Should you need assistance, please contact the Financial Tax Section, Kentucky Department of Revenue, Station 61, 501 High Street, Frankfort, Kentucky 40601-2103, (502) 564-4810. You can also contact one of the local taxpayer service centers. See inside back cover for a listing of these centers.

Where Can I Get Help?

Ashland, 41101–7695

1539 Greenup Avenue
Telephone: (606) 920-2037
Fax: (606) 920-2039

Bowling Green, 42104–3278

201 West Professional Park Court
Telephone: (270) 746-7470
Fax: (270) 746-7847

Corbin, 40701–6188

15100 North US25E, Suite 2
Telephone: (606) 528-3322
Fax: (606) 523-1972

Frankfort, 40601

501 High Street, Tenth Floor
Telephone: (502) 564-5930
Fax: (502) 564-8946

Hopkinsville, 42240–7926

181 Hammond Drive
Telephone: (270) 889-6521
Fax: (270) 889-6563

Louisville, 40202–2310

600 West Cedar Street
2nd Floor WEST
Telephone: (502) 595-4512
Fax: (502) 595-4205

Northern Kentucky

Turfway Ridge Office Park
7310 Turfway Rd., Suite 190
Florence, 41042-4871
Telephone: (859) 371-9049
Fax: (859) 371-9154

Owensboro, 42301–6295

Corporate Center
401 Frederica Street
Building C, Suite 201
Telephone: (270) 687-7301
Fax: (270) 687-7244

Paducah, 42001–4024

2928 Park Avenue
Clark Business Complex, Suite G
Telephone: (270) 575-7148
Fax: (270) 575-7027

Pikeville, 41501–1275

126 Trivette Drive
Uniplex Center, Suite 203
Telephone: (606) 433-7675
Fax: (606) 433-7679