

OTHER TAXES RELATED TO DEATH

CHAPTER ELEVEN:

In this chapter death taxes (other than Federal Estate Taxes) are briefly summarized.

OTHER TAXES RELATED TO DEATH

To wind up the affairs of a deceased person, in addition to Federal Estate Taxes, several other taxes come into play. These include: 1) deceased's final income taxes, state and federal; 2) estate income taxes; 3) gift taxes; and 4) state death taxes.

State death tax laws vary from state to state both as to form and rate. Nevertheless, these taxes can be categorized into two forms: inheritance taxes and estate taxes. Some states, such as Maryland, employ both forms (see Appendix P), while other states employ only one; one state, Nevada, has no death tax at all.

Inheritance tax, a tax on the right to receive property as the result of a death, is payable by the recipients of the property actually received. The following 22 states have some form of inheritance tax with rates ranging from 1% to 30%:

Connecticut	Iowa	Maine	Nebraska	Pennsylvania
Delaware	Kansas	Maryland	New Hampshire	South Dakota
Idaho	Kentucky	Michigan	New Jersey	Tennessee
Indiana	Louisiana	Montana	North Carolina	West Virginia
				Washington DC

Estate tax, a tax on the right to transfer property at death, is payable by the estate itself based on the value of the entire estate at the time of death. Eight states (none of which have an inheritance tax) impose an estate tax based on the size of the estate with rates ranging from .5% to 21%: Massachusetts, Mississippi, New York, Ohio, Oklahoma, Oregon, Rhode Island and South Carolina.

In addition, with the exception of Nevada, all states impose at a minimum a special type of estate tax known as a "recapture," "pickup" or "credit" estate tax. This tax only operates where the estate is large enough to have incurred a federal estate tax. In such cases, this tax recaptures tax saved at the federal level by virtue of the State Death Tax Credit and effectively allocates it to the state; accordingly, the total amount of taxes paid is unaffected.

Generally, death taxes will not be imposed on a particular item of property by more than one state. The state that is entitled to tax the property is determined by the type of property, its location, and the permanent residence of the deceased. For example, if one dies a permanent resident of Maryland, all of the deceased's assets will be subject to the Maryland inheritance tax laws, except those items of personal property (e.g., furniture, motor and recreational vehicles, jewelry, etc.) permanently located outside of Maryland and real property outside of Maryland. Assets permanently outside of Maryland are subject to taxation by the state (or country) in which they are located. Bank accounts and investments, regardless of where the certificates of ownership, brokerage account or passbooks are located are subject to taxation only by the state that was the deceased's permanent residence at death.