



September 14, 2001 (Reissued September 14, 2006)
Pennsylvania Inheritance Tax Ruling
No. INH-01-008
Appeal

ISSUE

May this Office strike the Department's Board of Appeals' assessment of additional tax when the Board sustained such assessment and the Estate did not file an appeal within the statute of limitations?

CONCLUSION

This Office cannot strike the Department's Board of Appeals assessment of additional tax when the Board sustained such assessment and the Estate did not file an appeal within the statute of limitations.

FACTS

Prior to her death, decedent and her husband settled a trust document which became irrevocable at her death. Her husband was named trustee of such trust. On January 11, 1999, the Department changed decedent's inheritance tax return as reported, finding that the trust assets passed to decedent's spouse for his lifetime, with the remainder passing to their children. Additional inheritance tax was assessed and the tax due paid. On December 5, 2000, the Estate filed a protest of the assessment. The Estate appealed the Department's denial of that protest with the Department's Board of Appeals. The Board denied the protest, as it was not timely filed. The Estate did not file a timely appeal of the Board's decision with the Orphans' Court.

DISCUSSION

The Pennsylvania Inheritance and Estate Tax Act requires that any party not satisfied with the Board's decision upon a protest must appeal to the Court within sixty days after receipt of the Board's decision. 72 P.S. § 9188(a). As the Estate failed to timely appeal the Board's decision, it is without recourse at this time. Although the letter you prepared is not a formal appeal to the court, even if it was, this Office has no authority to act outside the scope of the Act and consider the merits of any appeal filed beyond the statute of limitations. Therefore, this Office cannot now strike the Department's assessment of tax.

Furthermore, the Act only subjects a date of death transfer of a decedent's property to tax. 72 P.S. § 9107. As the Department determined that the assets owned by decedent and transferred to the subject trust were transferred by decedent to her husband as a life tenant only, at his death his ownership in those assets will end. Therefore, they cannot be transferred by him at his death. At his death none of the property which decedent transferred into the trust at her death will be transferred by her husband, and no

inheritance tax will be imposed upon their subsequent passage to their children, as remaindermen to decedent's transfer.