Department of Revenue Policy Concerning Same-Sex Marriage for Inheritance and Realty Transfer Tax Purposes

Purpose

This bulletin is issued to explain the effect of the May 20, 2014 Whitewood v. Wolf (992 F. Supp. 2d 410 (M.D. Pa. 2014)) decision (“Whitewood”) for PA Inheritance Tax and Realty Transfer Tax purposes.

Inheritance Tax

(1) For an estate in which the decedent was party to a same-sex marriage, legally recognized within Pennsylvania as a result of the May 20th, 2014 Whitewood decision, the surviving same-sex spouse shall be treated as a “husband” or “wife” for purposes of establishing rights and responsibilities under the Inheritance and Estate Tax Act. Further, a natural or adopted child of any individual and that individual’s spouse shall be considered a lineal heir for purpose of establishing tax rates. A step-descendant shall also be recognized as a lineal heir for purposes of establishing tax rates.

(2) Financial institutions shall treat joint accounts titled in the names of individuals in a same-sex marriage as accounts held by “husband” and “wife.”

(3) Refund applications may be filed within the limitations period under 72 P.S. § 9181(d).

Realty Transfer Tax

(1) For purposes of the exemptions under 72 P.S. § 8102-C.3(6), the phrase “husband and wife” shall be deemed to mean spouses. Individuals who are legally recognized as married within Pennsylvania as a result of the May 20th, 2014 Whitewood decision, shall be considered to be spouses for purposes of the exemptions. Further, an individual’s child (whether natural or adopted) is in a stepchild/stepparent relationship with the individual’s spouse for purpose of the exemptions.
(2) Individuals who were not eligible for the exemption for transfers between a husband and wife or between a stepparent and stepchild prior to the Whitewood decision and who paid Realty Transfer Tax may request a refund of tax. Refund requests must be made by petition to the Board of Appeals within the time limitations period under 72 P.S. § 10003.1.

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