



August 29, 2000 (Reissued August 30, 2005)
Pennsylvania Inheritance Tax Ruling
No. INH-00-017
Installment Sale of Real Estate

ISSUE

Whether real estate is subject to Pennsylvania Inheritance Tax where said realty was held by a decedent as a tenant in common and sold prior to decedent's death under an installment sale agreement through which payments could terminate at decedent's death.

CONCLUSION

Real estate sold prior to a decedent's death under an installment sale agreement where payments could terminate at decedent's death may be subject to Pennsylvania inheritance tax dependent upon the amount paid to decedent prior to decedent's death.

FACTS

Decedent held a 50% interest in a parcel of real estate as a tenant in common. Decedent contracted with a third party to sell the real estate in October, 1997 for approximately \$315,000.00. This amount was to be paid by the buyers to Decedent in monthly installments of \$3,500.00 for a period of 10 years or until the death of Decedent and his spouse, if any, that might survive Decedent's death, whichever period was shorter in duration. Decedent was single at the time of his death.

DISCUSSION

At issue is whether the real estate is subject to inheritance tax and if so, what portion of the value of the real estate is subject to tax. For Pennsylvania inheritance tax purposes, a transfer by a Pennsylvania resident under which a transferee promises to make payments to, or for the benefit of, the transferor or to care for the transferor during the remainder of the transferor's life, is subject to tax. 72 P.S. §9107(c)(6).

Decedent sold real estate to the buyer in exchange for a promise to make payments to Decedent the earlier of ten years or until his death. Had the purchase price of \$315,000.00 been paid in full to Decedent prior to his death, full and adequate consideration would have been given for the real estate and consequently, no tax would be due.

However, Decedent died before the full value of the property was paid to him. As such, the transfer is subject to tax. The amount subject to tax is the sales price less the payments received by Decedent prior to his death. Kelly Estate, 18 Fiduc. Repr. 501 (O.C. Crawford 1968).

In regard to the responsibility for payment of the tax, the Inheritance and Estate Tax Act states absent a contrary intent appearing in a will or other instrument of transfer, the liability for the tax, including interest shall be borne by the transferee. 72 P.S. §9144(f).