



July 13, 2005
(Reissued July 13, 2010)
Pennsylvania Inheritance Tax
No. INH-05-005
Taxability Real Estate

ISSUE

Is an interest in real estate transferred to the decedent for the sole purpose of avoiding local real estate tax, taxable in the decedent's estate?

CONCLUSION

Yes, an interest in real estate that was transferred to the decedent for the sole purpose of avoiding the local real estate tax, is an asset includible in the decedent's estate.

FACTS

The facts, as stated in your letter, are that the decedent died in July, 2004. Decedent was a military veteran. The City of Philadelphia offers an exemption from real property taxes to veterans. At the behest of the decedent, his daughter and son-in-law transferred a ten percent interest in real estate to the decedent. An application was then made for the exemption. The exemption was rejected because the decedent had to be the sole owner of the real estate. Your letter states that the real estate was then transferred back to the daughter and son-in-law ^[1]; however, the documentation you provided did not support this assertion. You state that decedent was not given any real interest in the real estate and, therefore, the real estate should not be included in decedent's estate.

DISCUSSION

Based upon these facts, it is the position of this Office that the decedent had a beneficial interest in the real estate. The transfer of the real estate was done at his urging. Decedent believed that by transferring the property he was providing his daughter and son-in-law tax avoidance. Therefore, decedent received a benefit from the transfer. As stated above, the real estate was transferred to, and perhaps, from the decedent within one year prior to his death. Therefore, the real estate is included in the decedent's estate. 72 P.S. § (C)(3). Please have the estate file an inheritance tax return including the value of the decedent's interest in the real estate.

^[1] Your letter states that the transfer back to the original grantors occurred in April 2004.