pennsylvania
DEPARTMENT OF REVENUE

M June 4, 2009
Pennsylvania Inheritance Tax
No. INH-09-001
Re-issuance of No. INH-03-017
Workmen's Compensation Installment Benefits

ISSUE:

Whether the right to receive workmen's compensation distributions scheduled to be paid approximately 20 and 21 years after a decedent's death to his Estate ("Taxpayer"), shall accrue interest and penalty on any Pennsylvania Inheritance Tax due and owing nine (9) months from the decedent's death?

CONCLUSION:

Interest and penalties (if applicable) shall not accrue on any Pennsylvania Inheritance Tax that results from the transfer of workmen's compensation benefits to Taxpayer, until Taxpayer actually receives said distributions.

FACTS:

The Decedent passed away on December 27, 1996, having liabilities that exceeded estate assets. He was, however, entitled to receive workmen's compensation benefits from the California State Workers Compensation Insurance Fund. The benefits were payable as follows:

1. $4,500.00 per month during his lifetime.

2. In the year 2016, a guaranteed lump sum payment to him or his Estate; in the amount of $250,000.00

3. In the year 2017, a guaranteed lump sum payment to him or his Estate in the amount of $750,000.00.

California law prohibits premature distributions of the payments scheduled for 2016 and 2017. California Law also prohibits the assignment of the right to future payments to a third party so Taxpayer is unable to liquidate said payments. Further, under California law, the payments to be received by Taxpayer do not include any interest. Excluding said distributions, the estate is otherwise insolvent.

DISCUSSION:

Section 2143 of the Inheritance and Estate Tax Act of 1991 addresses the imposition of interest upon the receipt of estate property as follows:

> . . . When payment of inheritance tax is not made because of litigation or . . .other unavoidable cause of delay and the property on which the tax has been calculated has remained in the hands of a fiduciary and has not produced a net income equal to the rate of interest provided in this section annually,

> interest for such period shall be calculated at the rate of the net income produced by the property.
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> 72 P.S. § 9143.

In this case, it is the opinion of the Department that Taxpayer's lack of possession of the distributions from the workmen's compensation fund is a result of "unavoidable . . . delay". California law prohibits the immediate distribution of the workmen's compensation payments to Taxpayer. The California State Workers Compensation Insurance Fund is the equivalent of a fiduciary as it holds the funds for the sole benefit of the Decedent's Estate. Finally, the lump sum distribution does not include any payment of interest on the funds.

Section 2143 requires the Department to calculate the interest at 0 percent until the unavoidable delay ends. This occurs upon receipt of the funds by Taxpayer. Interest will begin to accrue one day after each of the lump sum distributions is received by Taxpayer.