

REVENUE DEPARTMENT[701]

Adopted and Filed

Rule making related to securing payment of deferred inheritance tax

The Revenue Department hereby amends Chapter 86, “Inheritance Tax,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 421.17.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 450.48 as amended by 2018 Iowa Acts, Senate File 2303.

Purpose and Summary

Prior to July 1, 2018, estates containing personal property, real property, or a mix of both were required to provide a bond security to secure payment of deferred inheritance tax. During the 2018 Legislative Session, the Legislature amended Iowa Code section 450.48 to add other options in lieu of a bond for securing deferred payment. These amendments reflect the statutory change.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 19, 2018, as **ARC 4177C**. No public comments were received. Minor grammatical changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Department on January 23, 2019.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. The Fiscal Note for 2018 Iowa Acts, Senate File 2303, also identified no fiscal impact.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on March 20, 2019.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 86.14(9) as follows:

86.14(9) *Deferred life estates and remainder interest.*

a. A deferred estate generally occurs as the result of a decedent granting a life estate in property to one person with the remainder of the property to another. In such cases, the determination of the tax on the remainder interest to be received by the remainderman may be deferred until the determination of the previous life estate pursuant to Iowa Code section 450.46. Tax on a remainder interest that has been deferred is valued pursuant to Iowa Code section 450.37, with no reduction based on the previous life estate. Tax due on a deferred interest must be paid before the last day of the ninth month from the date of the death of the life tenant pursuant to Iowa Code section 450.46. ~~Penalty~~ Penalties and interest is are not imposed if the tax is paid before the last day of the ninth month from the date of the death of the life tenant. If the death of the decedent occurred before July 1, 1981, the tax due on a deferred interest must be paid before the last day of the twelfth month from the date of the death of the life tenant. Deferment may be elected due to the fact that the remainder interest is contingent and because the value of the remainder interest may be significantly altered from the time of the decedent's death until the death of the life tenant. A request for deferment may be made on a completed department form, and the completed form, with any required documentation, may be filed with the department on or before the due date of the inheritance tax return. Failure to file a completed department form requesting a deferral of tax on the remainder interest with the inheritance tax return will allow the department to provide an automatic deferral for qualifying remainder interests.

b. If deferral is chosen, an inheritance tax clearance cannot be issued for the estate. Expenses cannot be used to offset the value of the deferred remainder interest. Based upon Iowa Code section 450.12, deductible expenses must be expenses paid by the estate. Expenses incurred by a deferred remainder interest would not qualify based on Iowa Code section 450.12 as deductible expenses. Pursuant to Iowa Code section 450.52, the owner of a deferred remainder interest may choose to pay the tax on the present value of the remainder interest and have the lien on such an interest removed prior to the termination of the previous life estate. If early termination of the deferred remainder interest occurs, the value of the remainder interest will be reduced by the value of remaining previous life estate.

c. If the tax on an estate is deferred, a bond may have to be filed with the proper clerk of the district court. This bond must remain effective until the tax on the deferred estate is paid. Failure to maintain or properly renew the bond will result in the bond's being declared forfeited, and the amount collected. For additional details regarding obtaining a bond, see Iowa Code sections 450.49 and 450.50. The estate may secure payment of the deferred tax by providing other security in lieu of a bond, including but not limited to securities named in Iowa Code section 450.48(2) and securities deemed satisfactory by the department.

ITEM 2. Amend rule ~~701—86.14(450)~~, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~chapter chapters~~ 450, ~~Iowa Code Supplement chapter~~ and 633E, and ~~2005 Iowa Acts, chapter 38.~~

[Filed 1/24/19, effective 3/20/19]

[Published 2/13/19]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 2/13/19.