

CHAPTER 87
IOWA ESTATE TAX

[Prior to 12/17/86, Revenue Department[730]]

701—87.1(451) Administration.

87.1(1) *Applicability.* This chapter is applicable only for dates of death occurring prior to July 1, 2008.

87.1(2) *Definitions.* The following definitions cover 701—Chapter 87 and are in addition to the definitions contained in Iowa Code section 451.1.

“*Administrator*” means the administrator of the compliance division of the department of revenue.

“*Compliance division*” is the administrative unit of the department created by the director to administer the inheritance, estate, generation skipping transfer, and fiduciary income tax laws of the state.

“*Department*” means the Iowa department of revenue.

“*Director*” means the director of revenue.

“*Tax*” means the Iowa estate tax imposed by Iowa Code chapter 451.

“*Taxpayer*” means the personal representative of the decedent’s estate as defined in Iowa Code subsection 633.3(29) and any other person or persons liable for the payment of the federal estate tax under 26 U.S.C. Section 2002.

87.1(3) *Delegation of authority.* The director delegates to the administrator of the compliance division, subject always to the supervision and review by the director, the authority to administer the Iowa estate tax. This delegated authority specifically includes, but is not limited to: the determination of the correct Iowa estate tax liability; making assessments against the taxpayer for additional tax due; authorizing refunds of excessive tax paid; executing releases of the tax lien; and the determination of reasonable cause for failure to file and timely pay the tax due and granting extensions of time to file the return and pay the tax due. The administrator of the compliance division may delegate the examination and audit of tax returns to the supervisors, examiners, agents and any other employees or representatives of the department.

This rule is intended to implement Iowa Code sections 421.2, 421.4 and chapter 451.

701—87.2(451) Confidential and nonconfidential information.

87.2(1) *Confidential information.* Federal tax returns, federal return information, inheritance tax returns, and the books, records, documents and accounts of any person, firm or corporation, including stock transfer books, requested to be submitted to the department for the enforcement of the Iowa estate tax law, shall be deemed and held confidential by the department, subject to public disclosure only as provided by law. See 26 U.S.C. Section 6103 pertaining to the confidentiality and disclosure of federal tax returns and federal return information. See rule 701—6.3(17A).

87.2(2) *Information not confidential.* Copies of wills, probate inventories, trust instruments, deeds, release of a real estate lien, and other documents which are filed for public record are not deemed confidential by the department.

This rule is intended to implement Iowa Code chapter 22, and Iowa Code chapters 450 and 451 as amended by 1992 Iowa Acts, Second Extraordinary Session, chapter 1001.

701—87.3(451) Tax imposed, tax returns, and tax due.

87.3(1) *Tax imposed and tax due.* Iowa Code sections 451.2 and 451.8 impose a tax equal to the maximum amount of credit allowable under 26 U.S.C. Section 2011 of the Internal Revenue Code for state death taxes paid on property included in the gross estate of the decedent. The credit allowable under the federal statute is not limited to the Iowa inheritance tax imposed under Iowa Code chapter 450 on the property in the decedent’s gross estate, but also includes any other estate, legacy or succession taxes imposed by the state on the property. The Iowa estate tax qualifies as an estate tax specified in the federal credit statute. However, the tax due and payable, as distinguished from the tax imposed, is

the maximum credit allowable under 26 U.S.C. Section 2011, less the Iowa inheritance tax paid on the property included in the gross estate of the decedent.

Therefore, the Iowa estate tax due and payable is the amount which the maximum credit allowable under 26 U.S.C. Section 2011 exceeds the Iowa inheritance tax paid.

87.3(2) *Duty of the taxpayer.* The taxpayer does not have the option of electing on the federal estate return, to claim only the Iowa inheritance tax paid on property included in the gross estate of the decedent, or to claim the maximum credit allowed under 26 U.S.C. Section 2011 of the Internal Revenue Code. The maximum credit allowable under the federal statute must be claimed on the federal estate tax return. If the taxpayer has filed a federal estate tax return claiming an amount of credit less than the maximum credit allowable, the taxpayer has the duty to amend the federal estate tax return and claim the maximum credit allowable.

If there is a change in the amount of inheritance tax paid or in the amount of the maximum federal credit allowable for state death taxes paid (such as the result of a federal audit or an audit of the inheritance tax return) which results in an estate tax, or additional estate tax due, the taxpayer has the duty to promptly report the change to the department on an amended return, and pay the tax, or additional tax due, together with any penalty and interest. See Iowa Code section 451.8.

Effective July 1, 1998, there is no longer a requirement for safe deposit boxes to be inventoried and reported to the department prior to the delivery of the assets to the personal representative, transferee, joint owner or beneficiary.

87.3(3) *Form of return.* The final inheritance tax return form provided for in 701—subrule 86.2(2) shall be the return for reporting the Iowa estate tax due. The amount of the Iowa estate tax due shall be listed separately on the return from the amount of the inheritance tax shown to be due.

87.3(4) *Liability for the tax.* The personal representative of the decedent's estate and any person, including a trustee, in actual or constructive possession of any property included in the gross estate, have the duty to file the return with the department and pay the tax due. The shares of heirs and beneficiaries abate for the payment of the tax as provided in Iowa Code sections 633.436 and 633.437 in the same manner as they abate for the payment of the federal estate tax. See *Bergren v. Mason*, 163 N.W.2d 374 (Iowa 1968) for the proper method to abate shares to pay the federal estate tax.

Effective for estates with decedents dying on or after July 1, 1999, all the provisions of Iowa Code chapter 450 regarding liens, determination, imposition, payment, collection of inheritance tax, computation and imposition of penalty and interest upon delinquent taxes and the confidential aspects of the tax return also apply to the administration of estate tax imposed under this chapter, except to the extent that such rules may conflict with Iowa Code chapter 451 and the rules set forth in this chapter. The exceptions of the lien provisions found in Iowa Code section 450.7 do not apply to this chapter.

87.3(5) *Computation of the tax.*

a. Iowa decedent. If the decedent was a resident of Iowa at the time of death and all of the property included in the gross estate has a situs in Iowa, the total amount allowable as a credit under 26 U.S.C. Section 2001 shall be the tax imposed. If part of the gross estate of an Iowa resident decedent consists of property with a situs at death in a state other than Iowa, the tax imposed shall be prorated in the ratio that the Iowa property included in the gross estate bears to the total gross estate.

EXAMPLE 1.

Decedent dies July 3, 1997, a resident of Iowa. The estate was bequeathed in full to inheritance tax-exempt children, except for a \$10,000 bequest to one niece.

Total gross assets =	\$1,200,000
Less debts and expenses (except federal estate tax)	(300,000)
Federal adjusted gross estate =	\$900,000
Federal tax computation:	
gross federal estate tax =	306,800
less 1997 unified credit	(192,800)
less credit for state death tax paid	(27,600)

Net federal estate tax due =	\$86,400
Iowa tax computation:	
Inheritance tax on niece's bequest	1,000
Iowa estate tax equals the federal credit for state death taxes paid	27,600
Less inheritance tax due	(1,000)
Estate tax due	26,600
Total Iowa tax due (1,000 + 26,600) =	\$27,600

All of the decedent's assets have a situs in Iowa; therefore, the full amount of the credit allowable for state death taxes, less the Iowa inheritance tax, is the Iowa estate tax.

For simplicity in Example 2, the values used are the same for federal and state purposes and the debts and expenses are charged to the Iowa estate, even though under Iowa Code section 450.12, certain Minnesota expenses are not deductible in computing the Iowa inheritance tax. All liabilities, except mortgages, are prorated.

EXAMPLE 2.

Decedent dies July 3, 1997, a resident of Iowa, owning a vacation home in Minnesota. The estate was bequeathed in full to inheritance tax-exempt children, except for a \$10,000 bequest to one niece.

Total gross assets:	
Iowa	\$950,000
Minnesota	250,000
Total	1,200,000
Less debts and expenses (except for federal estate taxes)	(300,000)
Federal adjusted gross estate =	900,000
Federal tax computation:	
gross federal estate tax =	306,800
less 1997 unified credit	(192,800)
less credit for state death tax paid	(27,600)
Net federal estate tax due =	86,400
Iowa tax computation:	
Inheritance tax on niece's bequest	1,000
Iowa estate tax	
Proration:	
Iowa \$950,000	
Total \$1,200,000 = 79.17%	
Iowa portion of federal credit for state death taxes paid:	
\$27,600 × 79.17% =	\$21,850.92
Less inheritance tax due	(\$1,000.00)
Iowa estate tax =	\$20,850.92
Total Iowa tax due (1,000 + 20,850.92) =	\$21,850.92

b. Nonresident decedent. If the gross estate of a nonresident decedent includes property with a situs in the state of Iowa, the tax imposed is the maximum amount of the federal credit for state death taxes allowable prorated on the basis the Iowa situs property in the gross estate bears to the total gross estate. For simplicity in the following two examples, it is assumed the values are the same for federal and state purposes and the debts, expenses and federal estate tax are prorated between Iowa and Arizona even though certain liabilities are not prorated under Iowa Code section 450.12.

EXAMPLE 1.

Decedent died a resident of Arizona on July 3, 1997. The estate was bequeathed in full to tax-exempt children.

Total gross estate:	
Iowa real estate	\$750,000
Other property	450,000
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Total gross estate:	1,200,000
Less debts and expenses (except federal estate tax)	(300,000)
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Net adjusted gross estate =	900,000
Federal tax computation:	
Gross federal estate tax =	306,800
Less 1997 unified credit	(192,800)
Less credit for state death tax paid	(27,600)
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Net federal estate tax due =	86,400
Iowa estate tax computation:	
Inheritance tax =	-0-
Iowa estate tax proration:	
Iowa gross \$750,000	
Total gross \$1,200,000 = 62.50%	
Iowa portion of federal credit for state death tax paid: $27,600 \times 62.50\%$	
Iowa estate tax =	\$17,250

EXAMPLE 2.

Decedent died a resident of Arizona on July 3, 1997, with the same property as set forth in Example 1. The estate consisted of four separate \$100,000 bequests to non-exempt individuals with the rest of the estate going to charity.

Iowa portion of each bequest: $\$100,000 \times 62.50\% =$	\$62,500
Tax on each bequest =	\$6,500
Total Iowa inheritance tax due: $\$6,500 \times 4 =$	\$26,000
Total estate tax due	-0-
Iowa tax due =	\$26,000

The Iowa real property is part of the residual estate from which bequests are paid. See Estate of Dennis M. Billingsley, Emmet County District Court, Case No. 13394 (July 15, 1982).

87.3(6) Value to use. For the purpose of computing the amount of the tax imposed in both resident and nonresident estates, the value of the property in the gross estate as determined for federal estate tax purposes, and not the value for state inheritance tax, or other state succession taxes, shall be the value on which the tax is computed.

87.3(7) Return and payment due date. For estates of decedents dying prior to July 1, 1986, the return shall be filed with the department and the tax due paid within 12 months after the decedent's death, unless an extension of time has been granted by the department, in which case the return shall be filed and the tax paid within the time prescribed by the extension of time. For estates of decedents dying on or after July 1, 1986, the return must be filed and the tax due paid on or before the last day of the ninth month after the death of the decedent, unless an extension of time has been granted, in which case the return must be filed and the tax due paid within the time prescribed by the extension of time. See 701—paragraph 86.2(6) "a" for the due date when the last day of the ninth month following death falls on a Saturday, Sunday, or legal holiday.

87.3(8) Extension of time. The extension of time form for inheritance tax provided for in 701—subrule 86.2(9) shall be the extension of time form for the Iowa estate tax. If an extension of time based on hardship is requested, evidence of such hardship is to be provided with the filing of the extension request. Unless the extension of time specifically states to the contrary, an extension of time to file the final inheritance tax return, and pay the tax due, shall also be an extension of time for the same period, to pay the Iowa estate tax. Provided, however, in no event shall the extension be for a

period of time greater than the period of time allowed for claiming the credit for state death taxes paid under 26 U.S.C. Section 2011 of the Internal Revenue Code. Provided, further, if the federal estate tax liability is paid prior to the expiration of an extension of time to pay the Iowa estate tax, the tax shall be due and payable at the time the federal estate tax is paid regardless of the extension of time period. The application for an extension of time to file the return and pay the tax must be filed with the department prior to the time the return is required to be filed and the tax paid.

87.3(9) Renumbered as 701—10.90(451), IAB 1/23/91.

87.3(10) Renumbered as 701—subrule 10.90(1), IAB 1/23/91.

87.3(11) Renumbered as 701—subrule 10.90(2), IAB 1/23/91.

87.3(12) Renumbered as 701—subrule 10.90(3), IAB 1/23/91.

87.3(13) *Interest—during an extension of time.* During the period of an extension of time, any unpaid tax shall draw interest at the rate set forth in rule 701—10.2(421). Payments made during an extension of time shall first be credited to penalty, interest and the balance, if any, to the tax due. Estate tax is still due for estates that have deferred Iowa inheritance tax. Any outstanding tax obligation remaining after the expiration of an extension of time shall be deemed delinquent and shall be subject to penalty and draw interest at the rate set forth in rule 701—10.2(421). No discount is allowed for early payment of the tax due.

This rule is intended to implement Iowa Code sections 421.27, 450.63, 451.2, 451.5, 451.6, 451.8, 451.12, and 1997 Iowa Acts, chapter 60, sections 1 and 2.

701—87.4(451) Audits, assessments and refunds. 701—subrules 86.3(1) to 86.3(3) providing for the audit, assessment and refund of the Iowa inheritance tax shall also be the rules for the audit, assessment and refund of the Iowa estate tax.

This rule is intended to implement Iowa Code sections 451.3, 451.6, 451.8, 451.10 and 451.12.

701—87.5(451) Appeals. Rule 701—86.4(450), providing for an appeal to the director and a subsequent appeal to district court under the Iowa Administrative Procedure Act in inheritance tax disputes, shall also be the rule for appeals in Iowa estate tax disputes. See 701—Chapter 7.

701—87.6(451) Applicable rules. Unless otherwise provided in this chapter, the rules found in 701—Chapter 86 apply to the administration of estate tax including, but not limited to, rules regarding statutes of limitations provided, however, that the estate tax is applicable only to deaths occurring prior to July 1, 2008.

This rule is intended to implement Iowa Code chapter 17A, section 450.94, and 2008 Iowa Acts, Senate File 2350, section 37.

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