

**701—86.1 (450) Administration.**

**86.1(1) Definitions.** The following definitions cover Chapter 86.

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

“*Child*” means a biological or adopted issue entitled to inherit pursuant to Iowa Code chapter 633.

“*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 department of revenue.

“*Devise*,” when used as a verb, means to dispose of property, both real and personal, by a will.

“*Director*” means the director of revenue.

“*Estate*” means the real and personal property, tangible and intangible, of the decedent or a trust, that over time may change in form due to sale, reinvestment, or otherwise, and augmented by accretions or additions thereto and substitutions therefor, or diminished by any decreases and distributions therefrom. For the definitions of “gross estate” and “net estate” under this chapter, see those terms as referenced in this subrule.

“*Executor*” means any person appointed by the court to administer the estate of a testate decedent.

“*Fiduciary*” includes personal representative, executor, administrator, and trustee. This term includes both temporary and permanent fiduciaries appointed by the court to settle the decedent’s probate estate and also the trustee of an inter vivos trust where the trust assets are part of the gross estate for inheritance tax purposes.

“*Gross estate*” as used for inheritance tax purposes as defined in Iowa Code section 450.2 includes all those items, or interests in property, passing by any method of transfer specified in Iowa Code section 450.3 without reduction for liabilities specified in Iowa Code section 450.12. The gross estate for tax purposes may not be the same as the estate for probate purposes. For example, property owned as joint tenants with right of survivorship, property transferred with a retained life use, gifts in excess of the annual gift tax exclusion set forth in Internal Revenue Code Section 2503(b) and within three years of death, transfers to take effect in possession or enjoyment at death, trust property, “pay on death” accounts, annuities, and certain retirement plans, are not part of the decedent’s probate estate, but are includable in the decedent’s gross estate for inheritance tax purposes. *In re Louden’s Estate*, 249 Iowa 1393, 92 N.W.2d 409 (1958); *In re Sayres’ Estate*, 245 Iowa 132, 60 N.W.2d 120 (1953); *In re Toy’s Estate*, 220 Iowa 825, 263 N.W. 501 (1935); *In re Mann’s Estate*, 219 Iowa 597, 258 N.W. 904 (1935); *Matter of Bliven’s Estate*, 236 N.W.2d 366 (Iowa 1975); *In re English’s Estate*, 206 N.W.2d 305 (Iowa 1973).

Effective for estates of a decedent dying on or after July 1, 2003, property and any interest in or income from any of the estates and property, which pass from the decedent owner in any manner, are subject to tax if the passing interest is in one of the following: (1) real estate and tangible personal property located in Iowa regardless of whether the decedent was a resident of Iowa at death; and (2) intangible personal property owned by a decedent domiciled in Iowa.

“*Gross share*” means the total amount of property of an heir, beneficiary, surviving joint tenant, or transferee, without reduction of those items properly deductible in computing the net shares. The total of all gross shares is equal to the gross estate.

“*Heir*” includes any person, except the surviving spouse, who is entitled to property of the decedent under the statutes of intestate succession.

“*Internal Revenue Code*” means the Internal Revenue Code of 1954 as defined in Iowa Code section 422.3(5) and is to include the revisions to the Internal Revenue Code made in 1986 and all subsequent revisions.

“*Intestate estate*” means an estate in which the decedent did not have a will. Administration of such estates is governed by Iowa Code sections 633.227 through 633.230. Rules of inheritance for such estates are found in Iowa Code sections 633.211 through 633.226.

“*Issue*,” for the purpose of intestate succession, means all lawful lineal descendants of a person, whether biological or adopted. For details regarding intestate succession, see Iowa Code sections 633.210 through 633.226. For details regarding partial intestate succession, see Iowa Code section 633.272.

“*Net estate*” means the gross estate less those items specified in Iowa Code section 450.12 as deductions in determining the net shares of property of each heir, beneficiary, surviving joint tenant, or transferee. *In re Estate of Waddington*, 201 N.W.2d 77 (Iowa 1972). The total of all net shares of an estate must equal the total of the net estate.

“*Net share*” means the gross share less the liabilities, if any, which are properly deductible from the gross share of an heir, beneficiary, surviving joint tenant, or transferee. The law of abatement of shares may be applicable for purposes of determining the net share subject to tax. See Iowa Code section 633.436; *In re Estate of Noe*, 195 N.W.2d 361 (Iowa 1972); *Colthurst v. Colthurst*, 265 N.W.2d 590 (Iowa 1978); *In re Estate of Duhme*, 267 N.W.2d 688 (Iowa 1978). However, see Iowa Code section 633.278 for property subject to a mortgage.

“*Personal representative*” shall have the same meaning as the term is defined in Iowa Code section 633.3(29) and shall also include trustees. For information regarding claims of a personal representative, see Iowa Code section 633.431.

“*Probate*” means the administration of an estate in which the decedent either had or did not have a will. Jurisdiction over the administration of such estates, among other matters, is by the district court sitting in probate. For further details on the subject matter and personal jurisdiction of the district court sitting in probate, see Iowa Code sections 633.10 through 633.21. For matters regarding the procedure in probate, see Iowa Code sections 633.33 through 633.53.

“*Responsible party*” is the person liable for the payment of tax under this chapter. See 701—86.2(450).

“*Simultaneous deaths*” occur when the death of two or more persons occurs at the same time or there is not sufficient evidence that the persons have died otherwise than simultaneously. For distribution of property in this situation, see Iowa Code sections 633.523 through 633.528.

“*Stepchild*” means the child of a person who was married to the decedent at the time of the decedent’s death, or the child of a person to whom the decedent was married, which person died during the marriage of the decedent.

“*Surviving spouse*” means the legally recognized surviving wife or husband of the decedent.

“*Tax*” means the inheritance tax imposed by Iowa Code chapter 450.

“*Taxpayer*” means a person liable for the payment of the inheritance tax under Iowa Code section 450.5 and includes the executor or personal representative of an estate, the trustee or other fiduciary of property subject to inheritance tax, and includes each heir, beneficiary, surviving joint tenant, transferee, or other person becoming beneficially entitled to any property or interest therein by any method of transfer specified in Iowa Code section 450.3, as subject to inheritance tax with respect to any inheritance tax due on the respective shares of the property.

“*Trustee*” means the person or persons appointed as trustee by the instrument creating the trust or the person or persons appointed by the court to administer the trust.

“*Trusts*” means real or personal property that is legally held by a person or entity for the benefit of another. This includes, but may not be limited to, express trusts, trusts imposed by court order, trusts administered by the court, and testamentary trusts. Such trusts are subject to Iowa Code chapter 450, even in situations when the estate consists solely of trust property.

“*Unknown heirs*” means heirs to an estate in which the identities of the heirs or the place of residency of the heirs cannot be ascertained with reasonable certainty.

“*Will*” includes codicil; it also includes a testamentary instrument that merely appoints an executor, and a testamentary instrument that merely revokes or revives another will. For information regarding mutual and contractual wills, see Iowa Code section 633.270.

**86.1(2)** *Delegation of authority.* The director delegates to the administrator, subject always to the supervision and review by the director, the authority to administer the Iowa inheritance tax. This delegated authority specifically includes, but is not limited to, the determination of the correct inheritance tax liability; making assessments against the taxpayer for additional inheritance tax due; authorizing refunds of excessive inheritance tax paid; issuing receipts for inheritance tax paid; executing releases of the inheritance tax lien; granting extension of time to file the inheritance tax return and pay the tax due; granting deferments to pay the inheritance tax on a property interest to take effect in possession or enjoyment at a future date; requesting or waiving the appraisal of property subject to the inheritance tax and the imposition of penalties for failure to timely file or pay the inheritance tax. The administrator may delegate the examination and audit of inheritance tax returns to the supervisors, examiners, agents, and any other employees or representatives of the department.

**86.1(3)** *Information deemed confidential.* 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 inheritance 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 confidentiality and disclosure of federal tax returns and federal return information.

**86.1(4)** *Information not confidential.* Copies of wills, the filing of an inheritance tax lien, release of a real estate lien, probate inventories, trust instruments, deeds and other documents which have been filed for public record are not deemed confidential by the department.

**86.1(5)** *Forms.* The final inheritance tax return, inheritance tax receipts, and forms for the audit, assessment, and refund of the inheritance tax shall be in such form as may be prescribed or approved by the director—see 701—8.3(17A).

**86.1(6)** *Safe deposit boxes and joint accounts.* 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. Additionally, effective July 1, 2005, there is no longer a requirement that all persons, banks, credit unions, and savings and loan associations notify the department of the balance in a joint account on the date of a deceased joint owner's death and the name and address of the surviving joint owner prior to permitting the withdrawal of funds from the joint account by a surviving joint owner.

This rule is intended to implement Iowa Code chapter 22 and Iowa Code sections 450.1 and 450.2 as amended by 2003 Iowa Acts, chapter 95, sections 1 and 2, and sections 421.2, 450.67, 450.68, 450.94, 450.97 and 450B.7.

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