

701—86.3 (450) Audits, assessments and refunds.

86.3(1) Audits. Upon filing of the inheritance tax return, the department must audit and examine it and determine the correct tax due. A copy of the federal estate tax return must be filed with the inheritance tax return in those estates where federal law requires the filing of a federal estate tax return. The department may request the submission of wills, trust instruments, contracts of sale, deeds, appraisals, and such other information as may reasonably be necessary to establish the correct tax due. See Iowa Code sections 450.66 and 450.67 and *Tiffany v. County Board of Review*, 188 N.W.2d 343, 349 (Iowa 1971). For taxpayers using an electronic data interchange process or technology also see 701—subrule 11.4(4). The person or persons liable for the payment of the tax imposed by Iowa Code chapter 450 shall keep the records relating to the gross and net estate required for federal estate tax purposes under 26 U.S.C. Section 6001 of the Internal Revenue Code and federal regulation Section 20.6001-1.

86.3(2) Assessments for additional tax. The taxpayer must file an inheritance tax return on forms prescribed by the director on or before the last day of the ninth month after the death of the decedent. When an inheritance tax return is filed, the department shall examine it and determine the correct amount of tax. If the amount paid is less than the correct amount due, the department must notify the taxpayer of the total amount due together with any penalty and interest which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked or on or before the last day of the following month if the notice is postmarked after the twentieth day of a month and before the last day of the following month. For estates with decedents dying on or after July 1, 1999, the date of the notice and not the postmark date is controlling. If the inheritance tax return is not filed within the time prescribed by law, taking into consideration any extensions of time, or the return as filed is not correct, the department may make an assessment for the tax and any penalty and interest due based on the inventories, wills, trust instruments, and other information necessary to ascertain the correct tax. For interest and penalty rate information, see 701—Chapter 10.

86.3(3) Refunds. If the examination and audit of the inheritance tax return discloses an overpayment of tax, the department will refund the excess to the taxpayer. See 701—Chapter 10 for the statutory interest rate commencing on or after January 1, 1982. For estates of decedents dying prior to January 1, 1988, interest shall be computed for a period beginning 60 days from the date of the payment to be refunded. For estates of decedents dying on or after January 1, 1988, interest must be computed for a period beginning the first day of the second calendar month following the date of payment, or the date upon which the return which sets out the refunded payment was actually filed, or the date that return was due to be filed, whichever date is the latest. For the purposes of computing the period, each fraction of a month counts as an entire month. If the taxpayer, after the tax has been paid, discovers additional liabilities which, when offset by any additional assets results in an overpayment of the tax, the excess payment will be refunded to the taxpayer upon filing with the department an amended inheritance tax return claiming a refund. No refund for excessive tax paid shall be made by the department unless an amended return is filed with the department within three years (five years for estates of decedents dying prior to July 1, 1984) after the tax payment upon which the claim is made became due, or one year after the tax was paid, whichever time is the later—see Iowa Code section 450.94(3).

86.3(4) Supplemental assessments and refund adjustments. The department may, at any time within the period prescribed for assessment or refund adjustment, make a supplemental assessment or refund adjustment whenever it is ascertained that any assessment or refund adjustment is imperfect or incomplete in any respect.

If an assessment or refund adjustment is appealed (protested under rule 701—7.8(17A)) and is resolved whether by informal proceedings or by adjudication, the department and the taxpayer are precluded from making a supplemental assessment or refund adjustment concerning the same issue involved in such appeal for the same tax period unless there is a showing of mathematical or clerical error or a showing of fraud or misrepresentation.

86.3(5) Assessments—period of limitations. Effective for estates of decedents dying on or after July 1, 1984, assessments for additional tax due must be made within the following periods of time:

a. Within three years after the return is filed for property reported to the department on the return. The three-year period of limitation does not begin until the return is filed. The time of the decedent's death is not relevant. For purposes of determining the period of limitations, the assessment period shall terminate on the same day of the month three years later which corresponds to the day and month the return was filed. If there is no numerically corresponding day three years after the return is filed, or if the expiration date falls on a Saturday, Sunday, or legal holiday, the assessment period expires the preceding day in case there is no corresponding day, or the next day following which is not a Saturday, Sunday, or legal holiday.

b. The period of time for making an assessment for additional tax is unlimited if a return is not filed with the department.

c. If a return is filed with the department, but property which is subject to taxation is omitted from the return, the three-year period for making an assessment for additional tax on the omitted property does not begin until the omitted property is reported to the department on an amended return. The omission of property from the return only extends the period of limitations for making an assessment for additional tax against the beneficiary, surviving joint tenant, or transferee whose share is increased by the omitted property. Other shares of the estate are not affected by the extended assessment period due to the omitted property. The inheritance tax is a separate succession tax on each share of the estate, not on the estate as a whole. *In re Estate of Stone*, 132 Iowa 136, 109 N.W. 455 (1906).

86.3(6) *Period of limitations—federal audits.*

a. Statute of limitations and federal audits in general. In the case of a federal audit, the department, notwithstanding the normal three-year audit period specified in Iowa Code paragraphs 450.94(5) "a" and "b," shall have an additional six-month period for examination of the inheritance tax return to determine the correct tax due and for making an assessment for additional tax that may be due.

The additional six-month period begins on the date the taxpayer performs two affirmative acts: (1) notifies the department, and the department receives such a notification, in writing, that all controversies with the Internal Revenue Service concerning the federal estate, gift, and generation skipping transfer taxes have been concluded and (2) submits to the department a copy of the federal audit, closing statement, court decision, or any other relevant federal document concerning the concluded controversy. The additional six-month examination period does not begin until both of the acts are performed. See Iowa Code sections 622.105 and 622.106 for the mailing date as constituting the filing date and Iowa Code section 4.1(34) and *Emmetsburg Ready Mix Co. v. Norris*, 362 N.W.2d 498 (Iowa 1985) when the due date falls on a legal holiday.

b. Statute of limitations regarding federal audits involving real estate.

(1) In general. Effective for estates with decedents dying on or after July 1, 1999, in addition to the period of limitation for examination and determination, the department shall make an examination to adjust the value of real property for Iowa inheritance tax purposes to the value accepted by the Internal Revenue Service for federal estate tax purposes. The department shall have an additional six months to make an examination and adjustment for the value of the real property.

(2) Beginning of the additional six-month period. The additional six-month period for assessment and adjustment begins on the date the taxpayer performs two affirmative acts: (a) notifies the department, in writing, that all controversies with the Internal Revenue Service concerning the federal estate, gift, and generation skipping transfer taxes have been concluded and (b) submits to the department a copy of the federal audit, closing statement, court decision, or any other relevant federal document. Such documents must indicate the final federal determination and final audit adjustments of all real property.

(3) Adjustment required. The department must make an adjustment to the value of real property for inheritance tax purposes to the value accepted for federal estate tax purposes regardless of whether any of the following have occurred: an inheritance tax clearance has been issued; an appraisal has been obtained on the real property indicating a contrary value; there has been an acceptance of another value for real property by the department; an agreement has been entered into by the department and the personal representative for the estate and persons having an interest in the real property regarding the value of the real property.

(4) Refunds. Despite the time period for refunds set forth in Iowa Code section 450.94(3), the personal representative for the estate has six months from the day of final disposition of any real property valuation matter between the personal representative for the estate and the Internal Revenue Service to claim a refund from the department of an overpayment of tax due to the change in the valuation of real property by the Internal Revenue Service.

c. Effect of additional time periods. The additional six-month audit period set forth in “a” and “b” under this subrule does not limit or shorten the normal three-year examination period. As a result, a six-month additional examination period has no application if the additional six-month examination period would expire during the normal three-year audit period. If additional tax is found to be due, see paragraph 86.12(5)“b” for the inheritance tax lien filing requirements for securing the additional tax after an inheritance tax clearance has been issued. The six-month additional examination period means the department shall have at least six months to examine the return after the notification. The department will have more time if the normal three-year examination period expires after the six-month additional period for examination. After the expiration of the normal three-year examination period, and absent an agreement to the contrary, the six-month extension of the statute of limitations for assessing Iowa inheritance tax based on federal audit adjustments for real property is limited to federal audit adjustments that directly affect Iowa inheritance tax and involve Iowa inheritance tax laws that incorporate Internal Revenue Code provisions. See Iowa Code section 450.94(5), 701—86.9(450) and 701—86.12(450), and *Kelly-Springfield Tire Co. v. Iowa Board of Tax Review*, 414 N.W.2d 113 (Iowa 1987).

This rule is intended to implement Iowa Code sections 422.25 and 422.30; section 450.37 as amended by 1999 Iowa Acts, chapter 151, section 47; and Iowa Code sections 450.53, 450.65, 450.71, 450.94, 450A.12 and 451.12.

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