

701—86.2(450) Inheritance tax returns and payment of tax.

86.2(1) *Filing of an inheritance tax return.* Estates meeting certain requirements must file an inheritance tax return, and it is the duty of certain persons associated with the estate to file the inheritance tax return as follows:

a. Mandatory filing. The inheritance tax return provided for in subrule 86.2(2) must be filed if the gross share of any heir, beneficiary, transferee, or surviving joint tenant exceeds the exemptions allowable in Iowa Code sections 450.4 and 450.9. In addition, if Iowa real estate is includable in the gross estate, the return must be filed, even if no tax is due, prior to the issuance of a no tax due certificate.

Effective July 1, 2001, an estate is required to file an Iowa inheritance tax return if the entire estate of the decedent exceeds the sum of \$25,000 after deducting the liabilities of the estate.

b. Who must file. If the decedent's estate is probated as provided in Iowa Code chapter 633 or administered as provided in Iowa Code section 450.22, the personal representative of the estate is charged with the duty of filing the return with the department. If the personal representative of the estate fails to file the return or if the estate is not probated, it shall be the duty of those heirs, beneficiaries, transferees, surviving joint tenants, and trustees who receive shares in excess of the allowable exemptions or shares which are taxable in whole or in part, without the deduction of liabilities, and those individuals in receipt of the decedent's property are either jointly or severally to file the return with the department.

c. Who is not required to file a return for estate of decedents dying on or after July 1, 2004. Effective for estates with decedents dying on or after July 1, 2004, if an estate has no Iowa inheritance tax due and there is no obligation for the estate to file a federal estate tax return, even though real estate is involved, an Iowa inheritance tax return need not be filed if one of the following situations is applicable:

(1) All estate assets are held solely in joint tenancy with right of survivorship between husband and wife alone; or

(2) All estate assets are held solely in joint tenancy with right of survivorship, and not as tenants in common, solely between the decedent and individuals listed in Iowa Code section 450.9 as individuals that are entirely exempt from Iowa inheritance tax; or

(3) All assets are passing by beneficiary designation pursuant to a trust and are intended to pass the decedent's property at death or through a nonprobate transfer solely to individuals listed in Iowa Code section 450.9 who are statutorily exempt from Iowa inheritance tax on shares received from a decedent based on their relationship to the decedent. The entire amount of property, interest in property, and income passing solely to the surviving spouse and to parents, grandparents, great-grandparents, and other lineal ascendants, to children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants is exempt from tax; or

(4) All estate assets are passed by will or intestate succession as set forth in Iowa Code chapter 633, division IV, and beginning with section 633.210, solely to individuals who are statutorily exempt from Iowa inheritance tax as set forth above in subsection (3).

Paragraph 86.2(1) "c" does not apply to interests in an asset or assets that pass to both an individual listed in Iowa Code section 450.9 and that individual's spouse.

d. General rules. An Iowa inheritance tax return must be filed if estate assets pass to both an individual listed in Iowa Code section 450.9 and that individual's spouse.

(1) If an inheritance tax return is not required because the estate meets the criteria in paragraph 86.2(1) "c," the final report (beginning with Iowa Code section 633.469) need not contain an inheritance tax receipt (clearance) issued by the department, but must properly certify that one of the criteria set forth in paragraph 86.2(1) "c" has been met as set forth in Iowa Code section 450.58(2).

(2) If any interest in real estate passes on account of the decedent's death and no Iowa inheritance tax return is required to be filed and the real estate does not pass through probate administration, then one of the persons succeeding to the interest in the real property must file an affidavit in the county in which the real property is located setting forth the legal description of the real property and the fact that an Iowa inheritance tax return is not required to be filed with the department. A copy of this affidavit

must also be filed with the department with a schedule showing the value of the property for the purpose of ascertaining the basis of the property.

(3) If a return is filed with the department and the return is not required to be filed, the department will retain the return as required by statutes governing retention of returns. However, the department will not process the filed return if the statute does not require that the return be filed. The department will not issue a clearance in an estate in which a return is not required to be filed.

86.2(2) Form and content—inheritance tax return.

a. *Estates of decedents dying prior to July 1, 1983.* Rescinded IAB 10/13/93, effective 11/17/93.

b. *Estates of decedents dying on or after July 1, 1983.* For estates of decedents dying on or after July 1, 1983, the preliminary inheritance tax return is abolished and a single inheritance tax return is substituted in lieu thereof. The return shall provide for schedules listing the assets includable in the gross estate, a listing of the liabilities deductible in computing the net estate, and a computation of the tax due, if any, on each share of the net estate. The return shall conform as nearly as possible to the federal estate tax return, Form 706. For information regarding Iowa returns, see subrule 86.1(5). If the estate has filed a federal estate tax return, a copy must be submitted with the Iowa return. If the federal estate return includes the schedules of assets and liabilities, the taxpayer may omit the Iowa schedules of assets from the return. However, any Iowa schedules indicating liabilities must be filed with the Iowa return due to proration of liabilities. When Iowa schedules are filed with the return, only those schedules which apply to the particular assets and liabilities of the estate are required. A return merely listing the assets and their values when the gross estate is in excess of \$10,000 is not sufficient in nontaxable estates. In this case, the return must be amended to list the schedule of liabilities and the computation of the shares of the net estate before an inheritance tax clearance will be issued.

c. *Special rule when the surviving spouse succeeds to property in the estate.* Effective for estates of decedents dying on or after January 1, 1988, the following rules apply when the surviving spouse succeeds to property in the estate:

(1) If all of the property includable in the gross estate for inheritance tax purposes is held in joint tenancy with right of survivorship by husband and wife alone, an inheritance tax return is not required to be filed and a certificate from the department stating no inheritance tax is due is not required to release the inheritance tax lien under Iowa Code section 450.7(2).

(2) If any of the property includable in the gross estate passes to the surviving spouse by means other than by joint tenancy with right of survivorship or if any property passes by joint tenancy with right of survivorship when the surviving spouse is not the only surviving joint tenant, an inheritance tax return is required to be filed.

d. *Estates of decedents dying on or after July 1, 1999.* In addition to the special rule for surviving spouses set forth in paragraph “c” of this subrule, effective for estates of decedents dying on or after July 1, 1999, an estate that consists solely of property includable in the gross estate that is held in joint tenancy with right of survivorship and that is exclusively owned by the decedent and a lineal ascendant of the decedent, lineal descendant of the decedent, a child legally adopted in compliance with the laws of this state by the decedent or a stepchild of the decedent, or any other person declared exempt from Iowa inheritance tax pursuant to Iowa Code section 450.9, or a combination solely consisting of such persons, is not required to file an Iowa inheritance tax return, unless such an estate has an obligation to file a federal estate tax return. Property of the estate passing by means other than by joint tenancy with right of survivorship or if any property passes by joint tenancy with right of survivorship when the title of property is held by persons other than a lineal ascendant, lineal descendant, a child legally adopted in compliance with the laws of this state, or a stepchild of the decedent or by any other person declared exempt from Iowa inheritance tax pursuant to Iowa Code section 450.9, an inheritance tax return is required to be filed.

The exemption granted to stepchildren is limited to that class of step relationships exclusively. The exemption is not extended to include any lineal ascendants or descendants of the step relationship, such as stepparent or stepgrandparent. For a definition of “stepchild” for estates of decedents dying on or after July 1, 2003, please see the definition found in 701—86.1(450).

The rate of Iowa inheritance tax imposed on a share is based upon the relationship of the beneficiary to the decedent or the type of entity that is the beneficiary. A net estate that is less than \$10,000 does not have an Iowa inheritance tax obligation. For estates of decedents dying on or after July 1, 2001, the net estate that is less than \$25,000 does not have an Iowa inheritance tax obligation. The following is the most current Iowa inheritance tax rate schedule for net estates over \$25,000:

SCHEDULE B			
Brother, sister (including half-brother, half-sister), son-in-law, and daughter-in-law. There is no exemption.			
If the share is:			
Not over \$12,500, the tax is 5% of the share.			
If over	But not over	Tax is	Of excess over
\$ 12,500	\$ 25,000	\$ 625 + 6%	\$ 12,500
25,000	75,000	1,375 + 7%	25,000
75,000	100,000	4,875 + 8%	75,000
100,000	150,000	6,875 + 9%	100,000
150,000	and up	11,375 + 10%	150,000

SCHEDULE C			
Uncle, aunt, niece, nephew, foster child, cousin, brother-in-law, sister-in-law, stepgrandchild, and all other individual persons. There is no exemption.			
If the share is:			
Not over \$50,000, tax is 10% of the share.			
If over	But not over	Tax is	Of excess over
\$ 50,000	\$100,000	\$ 5,000 + 12%	\$ 50,000
100,000	and up	11,000 + 15%	100,000

SCHEDULE D			
A firm, corporation or society organized for profit, including an organization failing to qualify as a charitable, educational or religious organization:			
Effective July 1, 2001, any fraternal and social organization which does not qualify for exemption under IRC Section 170(c) and 2055:			
15% of the amount.			

SCHEDULE E			
Any society, institution or association incorporated or organized under the laws of any other state, territory, province or country than this state, for charitable, educational or religious purposes, or to a cemetery association, including a humane society not organized under the laws of this state, or to a resident trustee for use without this state, the rate of tax imposed in excess of \$500:			
10% of the amount.			

SCHEDULE F An unknown heir, as distinguished from an heir who is not presently ascertainable, due to contingent events: 5% of the amount.
SCHEDULE G A public library or public art gallery within this state, open to the use of the public and not operated for gain, or to a hospital within this state, or a trustee for such use within this state, or to a municipal corporation for purely public purposes: Entirely exempt: No tax. (Also included in this class are bequests for the care and maintenance of the cemetery or burial lot of a decedent or the decedent's family.)

86.2(3) *Liability for the tax.* The personal representative of an estate is personally liable for the total tax due from any person receiving property subject to the tax, to the extent the person's share of the property is subject to the jurisdiction of the probate court and the personal representative. The trustee of trust property subject to tax is personally liable for the total tax due from a beneficiary to the extent of the person's share of the trust property. Each heir, beneficiary, transferee, joint tenant, and any other person being beneficially entitled to any property subject to tax is personally liable for the tax due on all property received subject to the tax. The person is not liable for the tax due on another person's share of property subject to tax, unless the person is also a personal representative, trustee, or other fiduciary liable for the tax by reason of having jurisdiction over the property, the succession to which is taxable. *Eddy v. Short*, 190 Iowa 1376, 179 N.W. 818 (1920); *Waterman v. Burbank*, 196 Iowa 793, 195 N.W. 191 (1923).

86.2(4) *Supplemental return—deferred interest.* When the tax has been deferred on a property interest to take effect in possession or enjoyment after the termination of a prior property interest, it shall be the duty of the owner of the future interest to file a supplemental inheritance tax return with the department, reporting the future interest for taxation.

86.2(5) *Amended return.* If additional assets or errors in valuation of assets or deductible liabilities are discovered after the filing of the inheritance tax return increasing the amount of tax due, an amended inheritance tax return must be filed with the department, reporting the additional assets. The appropriate penalty and interest will be charged on the additional tax due pursuant to Iowa Code section 421.27 and department rules in 701—Chapter 10. To file an amended inheritance tax return, Form IA 706 shall be completed and at the top of the front page of the return the word "AMENDED" shall be printed. If additional liabilities are discovered or incurred after the filing of the inheritance tax return which result in an overpayment of tax, an amended inheritance tax return must be filed in the manner indicated above. For amended returns resulting from federal audit adjustments—see subrule 86.3(6) and rules 86.9(450), and 86.12(450). For permitted and amended returns not permitted for change of values—see subrule 86.9(4).

86.2(6) *Due date for filing—return on present property interests.* Unless an extension of time has been granted, the final inheritance tax return, or the inheritance tax return in case of decedents dying on or after July 1, 1983, must be filed and any tax due paid, for all property in present possession or enjoyment:

a. On or before the last day of the ninth month after death for estates of decedents dying on or after July 1, 1984, subject to the due date falling on a Saturday, Sunday, or legal holiday, which would then make the return due on the following business day. The following table for return due dates illustrates this subrule:

Deaths Occurring During:	Return Due Date:
July 1996	April 30, 1997
August 1996	June 2, 1997 (May 31 is a Saturday and June 1 is a Sunday)
September 1996	June 30, 1997
October 1996	July 31, 1997
November 1996	September 2, 1997 (August 31 is a Sunday, September 1 is Labor Day)
December 1996	September 30, 1997
January 1997	October 31, 1997
February 1997	December 1, 1997 (November 30 is a Sunday)
March 1997	December 31, 1997
April 1997	February 2, 1998 (January 31 is a Saturday and February 1 is a Sunday)
May 1997	March 2, 1998 (February 28 is a Saturday and March 1 is a Sunday)
June 1997	March 31, 1998

b. Within nine months after death for estates of decedents dying during the period beginning July 1, 1981, and ending June 30, 1984.

86.2(7) *Election to file—before termination of prior estate.* The tax due on a future property interest may be paid, at the taxpayer's election, on the present value of the future interest as follows:

a. *On or before the last day of the ninth month after the decedent's death (or within one year after the death of the decedent for estates of decedents dying prior to July 1, 1981).* Compute the tax by applying the life estate, annuity, or present value tables to the value of the property at the date of the decedent's death. If age or time is a determining factor in computing the present value of the future interest, it is the age or time at the date of the decedent's death that must be used.

b. *After the last day of the ninth month following the decedent's death (one year after death for estates of decedents dying prior to July 1, 1981) but prior to the termination of the prior estate.* Compute the tax by applying the life estate, annuity, or present value tables to the value of the property at the date the tax is paid. If age or time is a determining factor in computing the present value of the future interest, it is the age or time at the date the tax is paid that must be used. *In re Estate of Wickham*, 241 Iowa 198, 40 N.W.2d 469 (1950); *In re Estate of Millard*, 251 Iowa 1282, 105 N.W.2d 95 (1960). *In re Estate of Dwight E. Clapp*, Clay County District Court, Probate No. 7251 (1980).

86.2(8) *Mandatory due date—return on a future property interest.*

a. *For estates of decedents dying prior to July 1, 1984.* Rescinded IAB 10/13/93, effective 11/17/93.

b. *Mandatory due date—return on a future property interest for estates of decedents dying on or after July 1, 1981.* Unless the tax due on a future property interest has been paid under the provisions of subrule 86.2(7), paragraphs "a" and "b," the tax due must be paid on or before the last day of the ninth month following the termination of the prior estate. The statute does not provide for an extension of the mandatory due date for payment of the tax.

86.2(9) *Extension of time—return and payment.* For estates of decedents dying on or after July 1, 1984, the department may grant an extension of time to file an inheritance tax return on an annual basis. To be eligible for an extension, an application for an extension of time must be filed with the department on a form prescribed or approved by the director. The application for extension must be filed with the department prior to the time the tax is due and an estimated payment of 90 percent of the tax due must

accompany the application—see Iowa Code section 421.27 and rule 701—10.85(422). An extension of time to pay the tax due may be granted in the case of hardship. However, for extensions to be granted, the request must include evidence of the hardship—see 701—Chapter 10. An extension of time to file cannot be extended for a period of time longer than ten years after the last day of the month in which the death of the decedent occurs.

86.2(10) *Discount.* There is no discount allowed for early payment of the tax due.

This rule is intended to implement Iowa Code sections 421.14, 450.4, 450.5, 450.6, 450.9, 450.22, 450.44, 450.46, 450.47, 450.51, 450.52, 450.53, 450.63, and 450.94 and 2004 Iowa Acts, chapter 1073, and 2005 Iowa Acts, chapter 14.