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Inheritance Taxes – Advising Snowbirds Who Fly South

Presented by:

Stefanie L. Pate, Esq. & Michelle A. Ross, Esq.

Today's Team



Stefanie L. Pate
Partner, Trusts & Estates
Pittsburgh
spate@leechtishman.com



Michelle A. Ross
Counsel, Trusts & Estates
Pittsburgh
mross@leechtishman.com

What is the Pennsylvania Inheritance Tax?

- A tax on a beneficiary's right to receive property from a decedent
- PA Residents
 - All assets subject to PA Inheritance Tax
 - Exceptions
 - Form to file: REV-1500
- PA Non-Residents
 - Any assets with a PA situs are subject to PA Inheritance Tax
 - Exceptions
 - Form to file: REV-1737-A



Who Must File?

- The personal representative of a decedent's estate must file the Rev-1500 (PA resident) or REV-1737-A (nonresident).
- A transferee must file the applicable return if (i) no personal representative is appointed, (ii) a return has not been filed, or (iii) the return did not disclose all the transferred property.
 - Can include surviving joint tenant (spouse), beneficiaries, and heirs.

Where to File?



- The PA Inheritance Tax Return must be filed in duplicate with the Register of Wills in the county where the decedent resided at time of death.
- Practice Note - you should file the Inventory of estate assets at the same time you file the Return.

Payment of Tax – Deadline and Discount Date

- Deadline: 9 months after decedent's date of death
- 5% off!
 - Get a 5% discount if the tax is paid within 3 months of the decedent's date of death.
 - Return not required to be filed at this time to receive the discount.
- Pre-pay at the Register of Wills
 - The pre-payment must list:
 - Decedent's full name and Date of death
 - Social Security Number
 - Payable to "Register of Wills, Agent"
- Need an extension?
 - You can apply for a 15-month extension from the decedent's date of death, if necessary.

Pennsylvania Inheritance Tax Rates

- Pennsylvania Inheritance Tax rates are determined by the relationship of the beneficiary to the decedent.
- Rates as of April 2023:
 - Transfers to a surviving spouse, to a parent from a child aged 21 or younger, from a parent to a child aged 21 or younger, and charitable organizations/exempt institutions/exempt government entities (i.e., non-profits) - 0%
 - Transfers to direct descendants and lineal heirs – 4.5%
 - Transfers to siblings – 12%
 - Transfers to others– 15%

Assets Subject to PA Inheritance Tax



- For Pennsylvania Residents:
 - All real property located in Pennsylvania.
 - All tangible personal property located in Pennsylvania.
 - All intangible property including bank accounts, stocks and bonds, and others, regardless of where it is located.
- For Non-Residents:
 - All real property and tangible personal property located in Pennsylvania.

Assets and Transfers Exempt from PA Inheritance Tax

- Property jointly owned between spouses
 - If property is jointly owned with someone other than a spouse, the percentage owned by decedent at death is also exempt.
 - CAUTION- But, if the account was made joint within one (1) year of death, then the entire account is taxable.
- Certain Farmland and Agricultural Property
- Qualified family-owned business interests
 - Must have less than 50 employees, existed 5 years prior to decedent's death, owned only by the decedent or the decedent's family members, and the purpose of the business was not management of investments.
 - Must continue to be owned by the family for seven years following the decedent's death.
- Personal Property Transferred from the Estate of a Serving Military Member who has Died incident to Service
 - Effective for Decedent's Who Died on or After September 6, 2022.

Valuation of Assets for Reporting

- Generally, the valuation is based on the fair market value as of the decedent's date of death.
- There are special rules for valuation of life estates and future interests created by the decedent.



Traps when Trying to Avoid Inheritance Tax

- One year look back period
 - Any lifetime gifts/transfers made by the decedent in the year prior to his/her death are subject to PA Inheritance Tax.
 - \$3,000 per donee exemption.
- Tax Basis
 - Carryover basis versus step up in basis.

What Is the Best Way to Avoid the PA Inheritance Tax?



Move to Florida... but do it the right way!

Why move to Florida?



- Tax reasons
 - PA Inheritance Taxes
 - State Income Taxes
 - Property Taxes
- Asset Protection

Florida Tax Differences

- No Individual State Income Tax
- No Estate Tax on Decedents
- Homestead laws for Property Tax Benefits
 - Based on your home's assessed value.
 - Can reduce taxable value of home by up to \$50,000.



Florida's Asset Protection Laws

The level of asset protection in Florida is frequently greater than in other states, including:

- Creditor Protection for Life Insurance Proceeds
- Qualified Retirement or Profit-Sharing Plans
- Assets in Medical Savings Accounts
- 529 Plans
- College Trust Funds
- Property Owned by the Entirety is Generally Protected by Creditors
 - For Property Owned by Married Couples
 - Includes both real and personal property



Changing to Florida Domicile

What is Domicile?



- An individual's domicile is the place in which they live and intend to reside indefinitely
- If you own more than one home, you can still only have one domicile
 - However, your domicile can be changed

Steps to Change to Florida Domicile

1. File a FL Declaration of Domicile
2. Obtain a FL Driver's License
3. Register your vehicles in FL
4. Register to vote in FL
5. File final PA Income Tax Return
6. Begin filing PA Non-Resident Income Tax Returns Rent or
7. Own a principal residence in FL
8. File for the Homestead Exemption on FL real estate
9. Update your estate planning documents to comply with FL law
10. Transfer bank accounts to FL (Not Critical)
11. Change mailing address on account statements to FL
12. Live in FL for majority of the year

Declaration of Domicile Sample Form



DECLARATION OF DOMICILE

This is my declaration of domicile in the State of Florida that I am filing this day in accordance and in conformity with Section 222.17, Florida Statutes.

1. I hereby declare that I am a bona fide resident of the State of Florida, and reside in and maintain a place of abode at:

Address _____ City, State and Zip Code - County _____

which place of abode I recognize and intend to maintain as my permanent home and, if I maintain another place or places of abode in some other state or states, I hereby declare that my above-described residence and abode in the State of Florida constitutes my predominant and principal home, and I intend to continue it permanently as such.

I have been a bona fide resident of the State of Florida since the ____ day of _____, _____
Date Month Year

2. I formerly resided at:

Address _____ City, State and Zip Code - County _____

3. The place or places where I maintain another or other place or places of abode are as follows:

Address _____ City, State and Zip Code - County _____

4. _____ I intend to permanently continue and maintain domicile in the State of _____
_____ I intend to be or become domiciled in the State of Florida.

Optional: Also residing at this address:

Signature: _____ Signature: _____

Print Name _____ Print Name _____

STATE OF FLORIDA COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of [] physical presence or [] on-line notarization
this ____ day of _____, _____ by _____
who is [] personally known or [] has produced _____ as identification.

Signature of Notarizing or Attesting Official _____

(Notary Seal)

12 Steps to Establishing a Florida Domicile

1

File a Florida Declaration of Domicile

2

Obtain a Florida Driver's License

3

Register Your Vehicle(s) in Florida



4

Register to Vote in Florida

5

File Final Resident Income Tax Return in Your Home State

6

Begin Filing Non-Resident Income Tax Returns in Your Home State



7

Rent or Own a Principal Residence in Florida

8

File for a Homestead Exemption on Owned Florida Real Estate

9

Update Your Estate Planning Documents to Comply with Florida Law

10

Transfer Bank Account(s) to Florida
(not critical)

11

Change Mailing Address on Account Statements to Florida

12

Live in Florida for a Majority of the Year

Trust Situs

- Florida is one of the seven states that does not impose trust income tax.
- When a trust is created, it is governed by the law of the state in which the grantor was domiciled at the time the trust was created.
- This is the trust situs



Changing Trust Situs to Florida

- If a grantor moves to Florida and does not make changes to their trust, it will face the trust tax on income in the original state.
- Transferring a trust situs can be done by:
 - Decanting
 - Trust Modification
 - Nonjudicial Settlement Agreement
 - Merger
 - Separation

A large, 3D, dark blue question mark is positioned on the left side of the slide, standing on a wooden floor that recedes into the distance. The background is a solid dark blue color.

Questions?

Stefanie L. Pate, Esq.

Partner, Trusts & Estates Practice Group



spate@leechtishman.com | 412.261.1600

Licensed in Pennsylvania, Florida and New York. Based in Pittsburgh.

Trusts & Estates | Nonprofits & Tax-Exempt Organizations | Entertainment Industry

Stefanie's practice focuses on the preparation of simple and complex wills, living wills and powers of attorney, trusts, guardianship planning and administration, planning for individuals with special needs, charitable gift planning, the development of lifetime gifting programs, the preparation of business succession plans, and the preparation and negotiation of premarital agreements. Stefanie's practice also includes estate and fiduciary litigation matters.

Michelle A. Ross, Esq.

Counsel, Trusts & Estates Practice Group



mross@leechtishman.com | 412.261.1600

Licensed in Pennsylvania and New Jersey. Based in Pittsburgh.

Trusts & Estates | Tax | Litigation

Michelle focuses her practice on estates and trusts planning and administration, elder law and guardianships, and various other Orphans' Court fiduciary litigation. She has experience in power of attorney disputes, will contests, surcharge actions, and demands for accountings. In addition to her litigation experience, Michelle assists numerous families with all aspects of their estate planning needs, whether simple or complex, and the corresponding tax implications.



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