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NF96-236 Nebraska Inheritance and Estate Taxes

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NebFact

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Nebraska Inheritance and Estate Taxes

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This is one in a series of **NebFacts** providing information on farm and ranch estate planning. Titles in the series are listed at the end. Reading the documents in this series will improve your understanding of estate planning tools and alternatives and make it easier to communicate with your attorney, accountant, and other helpers when your estate plan is prepared.

Your need for legal and tax advice: While the information contained in this document is thought to be accurate, it should not be used as a substitute for legal advice on matters related to business organization, taxation, estate planning, or other business and financial management matters. Consult with your legal and tax advisers before making decisions.

Information regarding federal estate tax law and estate planning often does not include a discussion of state inheritance taxes or state estate taxes. Nebraska and federal law imposes an estate tax on the right to *leave* property to others; Nebraska tax law also imposes an inheritance tax on the right to *inherit* property from others.

Nebraska Inheritance Tax

The Nebraska inheritance tax is imposed on all property inherited from the estate of the deceased (including life insurance payable to the estate) passing by will or intestate succession (i.e. without a will) pursuant to Nebraska probate statutes. The value of such property is based on the fair market value as of the date of death. The amount of the tax depends upon the recipient's relationship to the deceased. The surviving spouse pays no inheritance tax, children and other close relatives pay a maximum 1 percent tax, more distant relatives pay a maximum 9 percent tax, and other inheritances pay a maximum 18 percent tax (see *Table I*). Legally adopted children and other adopted relatives are treated as children and blood relatives of the deceased for state inheritance tax purposes.

Table I. Nebraska Inheritance Taxes

relationship	*exemption*	*taxable inheritance*	*tax rate*
surviving spouse	100%	none	0%
children, parents, grandparents, siblings	$10,000	amount above $10,000	1% on excess of $10,000
all other relatives or their surviving spouses	$2,000	$2,001-$60,00	6% of $2,000-$60,000
		more than $60,000	$3,480 plus 9% on excess of $60,000
all other inheritances	$500	$501-$5,500	6% of $500-$5500
		$5,501-$10,500	$300 plus 9% of amount over $5,500
		$10,501-$20,500	$750 plus 12% of amount over $10,500
		$20,501-$50,000	$1,950 plus 15% of amount over $20,500
		over $50,000	$6,375 plus 18% of amount over $50,000

The term "relatives of the deceased" includes (1) the relatives of a former spouse if the former spouse died while married to the deceased, and (2) the relatives of the deceased's surviving spouse. The homestead allowance (up to $7,500), exempt property (up to $5000) and family maintenance allowance (up to $9,000) to the surviving spouse and/or children are not subject to inheritance tax. The tax is paid to the county of the decedent's residence within one year of death. The inheritance tax is credited to the county's general fund or to any other fund of the county selected by the county board.

Children inheriting $1 million from their parents would pay $9,900 state inheritance tax (see *Table I*). A niece inheriting $1 million from a deceased aunt would pay $88,080 in state inheritance taxes. A tenant who inherited a $1 million farm from the unrelated deceased landowner would pay a state inheritance tax of $177,375. Inheritance taxes may be reduced or avoided by lifetime property transfers to beneficiaries. Consult your attorney for further information.

Transfers exempt from Nebraska inheritance taxes include gifts to federal agencies, state agencies, or charitable corporations.

The Nebraska inheritance tax is imposed on those who inherit the property. However, the executor, administrators, or personal representative of the estate may pay the state inheritance tax and deduct the amount from the property of the person or entity entitled to the inheritance, and may also sell the property to raise funds to pay the inheritance tax.

The Nebraska inheritance tax is due and payable 12 months from the date of death. If this tax is not paid, the County Treasurer may collect it in the same manner in which any other tax is collected, or the person from whom the inheritance tax is due may be ordered by the County Court to appear before the court and show why the tax has not been paid. Interest on unpaid inheritance tax is 14 percent.

Nebraska Estate Tax

A Nebraska state estate tax is imposed on estates for which a federal estate tax return is filed. The amount of this tax is linked to the Maximum Federal Credit for State Death Taxes as reported in the federal estate tax return. When that credit has been calculated (see *Table II*), the Nebraska estate tax is the difference between the maximum federal credit claimed and the total of all inheritance state inheritance taxes paid to Nebraska (or any other state) if the total of the state taxes paid is less than the maximum federal credit. (State inheritance taxes and other state taxes on inherited property are referred to by the IRS as "state death taxes.") If the state inheritance and death taxes paid are greater than the federal credit, no Nebraska estate tax is due. The value of the estate's assets is determined as of the date of death. The Nebraska estate tax can be minimized through estate planning similar to federal estate tax. Consult your attorney.

Table II. Maximum Federal Credit for State Death Taxes

Adjusted Taxable Estate		*State Death Tax Credit*		
over	*but not over*	*this amount plus*	*this % of*	*excess over*
$0	$40,000	$0	0.0%	$0
$40,000	$90,000	$0	0.8%	$40,000
$90,000	$140,000	$400	1.6%	$90,000
$140,000	$240,000	$1,200	2.4%	$140,000
$240,000	$440,000	$3,600	3.2%	$240,000
$440,000	$640,000	$10,000	4.0%	$440,000
$640,000	$840,000	$18,000	4.8%	$640,000
$840,000	$1,040,000	$27,600	5.6%	$840,000
$1,040,000	$1,540,000	$38,000	6.4%	$1,040,000
$1,540,000	$2,040,000	$70,800	7.2%	$1,540,000
$2,040,000	$2,540,000	$106,800	8.0%	$2,040,000
$2,540,000	$3,040,000	$146,800	8.8%	$2,540,000
$3,040,000	$3,540,000	$190,800	9.6%	$3,040,000
$3,540,000	$4,040,000	$238,800	10.4%	$3,540,000
$4,040,000	$5,040,000	$290,800	11.2%	$4,040,000
$5,040,000	$6,040,000	$402,800	12.0%	$5,040,000
$6,040,000	$7,040,000	$522,800	12.8%	$6,040,000
$7,040,000	$8,040,000	$650,800	13.6%	$7,040,000
$8,040,000	$9,040,000	$758,800	14.4%	$8,040,000
$9,040,000	$10,040,000	$930,800	15.2%	$9,040,000
$10,040,000	* * *	$1,082,800	16.0%	$10,040,000

Surviving spouses generally would not pay a state estate tax. If the mother died and had a taxable estate of $1 million which was inherited by her children, the children would have to pay $9,900 state inheritance tax (see *Table I*). Because the federal credit of $36,560 claimed on mother's federal estate tax return (see *Table II*) is greater than the state inheritance taxes paid, the children would have to pay $26,660 in state estate taxes.

If the deceased left a $1 million taxable estate, and the property was left to the deceased's niece, the niece would have to pay $88,080 in state inheritance taxes (see *Table I*). Because the state inheritance taxes paid were more than the $36,560 credit claimed on the deceased's federal estate tax return, the niece would not be required to pay any state estate taxes. She is not entitled to claim the $88,080 on her the federal estate tax return, however, only the $36,500 authorized by federal estate tax law.

The state estate tax is due and payable to the State Treasurer of Nebraska within 12 months from the date of death. The executor, administrator, or personal representative of the estate, as well as the beneficiary or surviving joint owners, are liable for the estate tax until it is paid, and the estate tax is a lien on any of the estate property until paid. However, any property passing from the deceased to a surviving spouse is not subject to this lien. Interest on unpaid state estate tax is 14 percent.

Documents in this series:

- NF 95-227 *Intestate Succession In Farming and Ranching*
- NF 95-228 *Using a Will In Farm and Ranch Estate Planning*
- NF 95-229 *Joint Tenancy In Farm and Ranch Estate Planning*
- NF 95-230 *Tenants In Common Ownership In Farm and Ranch Estate Planning*
- NF 95-231 *Using a Trust In Farm and Ranch Estate Planning*
- NF 95-232 *Using Gifting In Farm and Ranch Estate Planning*
- NF 95-233 *Glossary of Estate Planning Terms*
- EC 95-819, *Estate Planning for Farm and Ranch Families: Information for Your Legal and Tax Advisers*

Related publications:

- NF 93-143 *Federal Estate and Gift Taxes*
- NF 93-144 *Determining Property Basis*
- NF 93-145 *Special-Use and Alternative Valuation of Estate Property*
- NF 93-146 *Delayed Payment of Federal Estate Taxes*
- NF 93-147 *Tax Considerations in Selling Farm Property*

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