

Beneficiaries of Estate Are Liable for Estate Taxes

Normally the estate tax is paid by the estate. Sometimes beneficiaries receive so many of the assets directly, there isn't enough left in the estate to pay the tax. This case involves late filing as well as nonpayment of the tax. Each beneficiary ended up being liable for a pro-rata portion of the tax based on the amount of assets that beneficiary received, even if received directly.

In this case Harold Arshem, the decedent, had listed some beneficiaries directly on some assets. Upon the decedent's death in December 1999, these assets went directly to the named beneficiaries and were not controllable by Mr. Arshem's will.

He had made a few large gifts shortly before his death including gifting a remainder interest in the family farm to a grandson. He bequeathed the remainder of his estate into three equal parts for his three daughters, one of which was Donna Ringling.

The three daughters were appointed the executors of his will. An inheritance tax report was filed in South Dakota. This report incorrectly showed the county assessed values of the real estate instead of their appraised values.

In June 2003, a court appointed Stan Whiting as special administrator to take over the estate proceedings. In August 2003 the court ordered Mr. Whiting to amend the inheritance tax report with South Dakota and file a Form 706, Estate Tax Return, with IRS. On April 14, 2008, one of the daughters signed the Form 706 which reported a gross estate of about \$834,000 and a net tax due of just under \$29,000 but nothing was paid with the return. In July 2008 IRS sent a bill for the tax, plus assessments for late filing penalty, late paying penalty, and interest with the total coming to about \$65,000. Another notice was sent by IRS in November 2008. The special administrator had amended the South Dakota report, filed the Form 706, and advised the beneficiaries of the amount each owed for the tax. Since his court assigned duties were completed, he applied for release of his duties in December 2008. Nothing in the case summary explains why the filings took so long to be completed, but they were obviously late.

In January 2010, Ms. Ringling requested IRS abate the interest and penalties. IRS denied the request. Over the next several years IRS sent notices of the amounts due as well as various other forms and notices.

IRS has pursued each of the beneficiaries for a portion of the unpaid assessment against the estate equal to their pro-rata share of assets received.

The District Court sided with IRS stating each beneficiary was required to pay a pro-rata portion of the estate tax based on the value of the assets the beneficiary

received. It would appear this requirement would also apply to any taxes the decedent owed prior to death.

Donna Ringling, District Court, South Dakota District, 2/21/19.

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