

## TAX COMMITTEE NOTES

OCTOBER 28, 2014

### Panel:

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### Discussion:

- General Housekeeping:
  - Currently it takes ~4 months from filing to assessment
  
- Revised Rev-1500 Pennsylvania Inheritance Tax Return
  - Form
    - Ovals 4 through 11 have been revised
      - Oval 4 for the Agricultural Exemption (date of death on or after 7/1/12) is new
      - Former Oval 4 for limited return has been removed
      - The Ovals have been renumbered, Oval 4A for Future Interest Compromise (date of death after 12/12/82) is now Oval 5 and the existing ovals between 6 and 9 are all one number greater than before the revisions
      - Oval 11 for a Non-Probate Transferee Return is new
      - Former Oval 10 for the Spousal Poverty Credit (date of death between 12/31/91 and 1/1/95) has been removed
      - Former Oval 11 for Election to Tax under Section 9113(A) has been replaced by Oval 12 for Deferral/Election of Special Trusts
      - Oval 13 has been added for Business Assets
      - Oval 14 has been added for when the Spouse is Sole Beneficiary (No Trust Involved)
    - Signature Location
      - The party responsible for filing the return must now sign on page 2 of the return under the tax calculation instead of on the cover page
  
- Sole Use Trust
  - Last year's tax committee meeting with a panel of speakers from the Department of Revenue included discussion between members of the panel and the committee members about the Department's policy on sole use trust elections under schedule O

- The Philadelphia Bar Association Probate & Trust Section had written to the Department asking it to reconsider its policy, but the Department elected to continue with its policy
- The panel was asked whether there was any change, there is not
- The panel did not provide information on any pending cases that they were aware of dealing with the sole use trust issue or whether any had been decided
  
- Qualified Family Business Exemption
  - In order for the transfer of a family business (less than 50 employees, less than 5 million net book value, must be in existence more than 5 years pre-transfer, must be wholly owned by the decedent and member's of his/her family who qualify) to qualify for this exemption it must be:
    - transferred to one or more qualified transferees;
      - limited to spouses, lineal descendants, siblings and their lineal descendants, ancestors and their lineal descendants
      - no in-laws
      - no entities (not clear if any exceptions)
    - owned by a qualified transferee for a minimum of seven years after the decedent's death; and
      - the transferee has annual reporting requirements for the seven year period
      - if at any time the qualified transferee transfers the interest to a non-qualified transferee, tax will become due
    - reported on a timely filed inheritance tax return.
      - timely filed means the interest must be reported on a PA Inheritance Tax return filed within 9 months of the decedents date of death, or 15 months of the decedent's date of death if the estate or person required to file the return has been granted the six-month statutory extension. There is no extension available for administrative, litigation or other holds for these deadlines.
  
- Business of Agricultural Exemption
  - In order for the transfer of an interest to qualify for this exemption, it must be:
    - Real estate
    - between family members
    - an outright transfer
    - the interest must be used for agricultural activities for at least seven years, transferee has a reporting requirement
    - failure to comply with use requirement will cause tax to become due (no need to use best use to calculate tax value of interest); and
    - interest cannot be used for hunting, fishing, show animals, etc.

- Other Agricultural Transfer Exemption
  - In order for the transfer of an interest to qualify for this exemption, it must be:
    - A transfer that fits the definition in 72 PS 9122 (a), it can be more than real estate but does not extend to some kinds of equipment for example
    - To a lineal descendent or sibling only
    - Transferee has not reporting requirement