

PRIVATE TAXPAYER RULING LR99-004

March 15, 1999

The following private taxpayer ruling is in response to your letter dated January 28, 1999. Your letter requests a determination regarding the application of the federal estate tax credit for taxes paid on prior transfers in determining the Arizona estate tax for the Estate of (Taxpayer), Deceased.

The following is a restatement of the facts as presented in your letter. Statement of facts: (Taxpayer) died on ... a resident of Arizona. (Taxpayer) was a fifty-percent residual beneficiary of the estate of (Parent), who died on (within two years prior).

Pertinent facts from (Parent's) estate tax return are as follows:

Gross Estate \$63,172,775

Deductions \$ 489,989

Taxable Estate \$62,682,786

Gross Estate Tax \$34,475,627

Credit for State Death Taxes \$ 9,496,046

(Taxpayer's) estate appears to be as follows:

Gross Estate \$44,505,084

Marital Deduction \$35,138,832

Other Deductions -0-

Taxable Estate \$ 9,366,252

The total estate taxes due from (Taxpayer's) estate before consideration of the credit for taxes paid on prior transfers are \$4,590,188.60. The taxes are allocated \$971,270.30 to Arizona and \$3,618,918.30 to the federal government. However, a federal credit for taxes paid on prior

transfers of as much as \$12,393,390 is available to (Taxpayer's) estate.

Discussion:

The Arizona estate tax is a form of state death tax commonly referred to as a "pick-up" tax. Such state tax statutes do not increase the amount of combined federal and state tax liability, but merely authorize the state to share in the federal estate tax to the extent of the allowable federal credit for state death taxes. The intent of the Arizona estate tax is to "pick up" the maximum allowable federal credit for state death taxes without increasing the combined federal-state estate tax liability.

If the Arizona estate tax was payable without regard to the federal credit for taxes paid on prior transfers, the result would be an increase in the estate's tax liability rather than a "pick-up" of tax otherwise due the federal government. Additionally, property which is subject to taxation only once at the federal level could be subject to successive Arizona taxes.

Under the overall scheme of estate taxation imposed by the federal government and the Arizona legislature, the federal credit for taxes paid on prior transfers may be taken into account in determining an estate's Arizona estate tax liability. If the federal credit for taxes paid on prior transfers reduces an estate's federal estate tax to zero, without resorting to the use of the federal credit for state death taxes, there is no Arizona estate tax liability.

Conclusion and Ruling:

On the basis of the information provided, we rule that the Estate of (Taxpayer), Deceased has no Arizona estate tax liability because of the application of the available federal credit for taxes paid on prior transfers.

The conclusion in this private taxpayer ruling does not extend beyond the facts as presented in the request for a private taxpayer ruling dated January 28, 1999.

This response is a private taxpayer ruling and the determination herein is based solely on the facts provided in your request. The determination in this taxpayer ruling is the present position of the department and is valid for a period of four years from date of issuance except as set out herein. This determination is subject to change should the facts prove to be different on audit. If it is determined that undisclosed facts were substantial or material to the department's making of an accurate determination, this taxpayer ruling shall be null and void. Further, the determination is subject to future change depending on changes in statutes, administrative rules, case law or notification of a different department position.