

AN ACT relating to inheritance tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 140.070 is amended to read as follows:

The tax upon transfers of property as imposed by KRS 140.010~~[defined in the preceding sections of this chapter]~~ shall be assessed upon the following classes of beneficiaries at the following rates:

(1) **(a)** Class A shall include~~[. In case the transfer is to or for the benefit of]~~ a:

- 1. Parent;~~;~~
- 2. Surviving spouse;~~;~~
- 3. Child by blood;~~;~~
- 4. Stepchild;~~;~~
- 5. Child adopted during infancy;~~;~~
- 6. Child adopted during adulthood who was reared by the decedent during infancy;~~[or a]~~
- 7. Grandchild who is the issue of a child by blood;~~;~~
- 8. The issue of a stepchild;~~;~~
- 9. The issue of a child adopted during adulthood who was reared by the decedent during infancy;~~;~~
- 10. The issue of a child adopted during infancy;~~;~~
- 11. Brother;~~;~~
- 12. Sister;~~;~~ or
- 13. Brother or sister of the half blood; and~~;~~

(b) The tax~~[, subject to the provisions of KRS 140.080,]~~ shall be zero percent (0%)~~;~~

— On its value not exceeding \$20,000	2%
— On its value exceeding \$20,000, but not exceeding \$30,000	3%
— On its value exceeding \$30,000, but not exceeding \$45,000	4%

— On its value exceeding \$45,000, but not exceeding \$60,000	5%
— On its value exceeding \$60,000, but not exceeding \$100,000	6%
— On its value exceeding \$100,000, but not exceeding \$200,000	7%
— On its value exceeding \$200,000, but not exceeding \$500,000	8%
— On its value exceeding \$500,000	10%]

(2) (a) Class B ***shall include:***~~[In case the transfer is to or for the benefit of]~~

1. A nephew;~~;~~
2. A niece;~~;~~ ~~or]~~
3. A nephew or niece of the half blood;~~;~~
4. A daughter-in-law;~~;~~
5. A son-in-law;~~;~~
6. An aunt;~~;~~ ~~or]~~
7. An uncle;~~;~~ or
8. A great-grandchild who is the grandchild of a:
 - a. Child by blood;~~;~~ ~~of a]~~
 - b. Stepchild;~~;~~ or ~~of a]~~
 - c. Child adopted during infancy; ***and***~~;~~

(b) The tax~~[, subject to the provisions of KRS 140.080,]~~ shall be:

On its value not exceeding <i>\$5,000</i>	<i>0%</i>
<i>On its value exceeding \$5,000, but not exceeding</i> [\$10,000	4%
— On its value exceeding \$10,000, but not exceeding \$20,000	5%
— On its value exceeding \$20,000, but not exceeding] \$30,000	<i>3%</i> [6%]
On its value exceeding \$30,000, but not exceeding \$45,000	8%
— On its value exceeding \$45,000,] but not exceeding \$60,000	<i>5%</i> [10%]
On its value exceeding \$60,000, but not exceeding \$100,000	<i>6%</i> [12%]
On its value exceeding \$100,000 , but not exceeding \$200,000	14%
— On its value exceeding \$200,000]	<i>8%</i> [16%]

(3) (a) Class C ***shall include:***~~[. In case the transfer is to or for the benefit of any]~~

1. a. Educational, religious, or other institutions;~~;~~

b. Societies;~~;~~ ~~or]~~

c. Associations;~~;~~ or ~~to any]~~

d. Cities, towns, or public institutions;
not exempted by KRS 140.060;~~;~~ or ~~to]~~

2. Any person not included in either Class A or Class B; ***and***~~;~~

(b) The tax~~, subject to the provisions of KRS 140.080]~~ shall be:

On its value not exceeding \$10,000	6%
On its value exceeding \$10,000, but not exceeding \$20,000	8%
On its value exceeding \$20,000, but not exceeding \$30,000	10%
On its value exceeding \$30,000, but not exceeding \$45,000	12%
On its value exceeding \$45,000, but not exceeding \$60,000	14%
On its value exceeding \$60,000	16%

(4) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

➔Section 2. KRS 140.040 is amended to read as follows:

(1) (a) ~~If~~~~Whenever]~~ any person ***exercises***~~[shall exercise]~~ a power of appointment derived from any disposition of property, ***regardless of the type of instrument from which the power of appointment is derived and*** ~~(whether by will, deed, trust agreement, contract, insurance policy or other instrument) regardless of]~~ when ***the power of appointment is*** made, ***that***~~[such]~~ appointment shall be deemed a transfer ***of property*** taxable under the provisions of this chapter ***as if***~~[in the same manner as though]~~ the property to which ***the power of***~~[such]~~ appointment relates belonged absolutely to the donee of ***the***~~[such]~~ power ***of appointment*** and had been bequeathed or devised by ***that***~~[such]~~ donee by

will.~~;~~ ~~and whenever~~]

- (b) *If* any person possessing~~[such]~~ a power of appointment *described in paragraph (a) of this subsection omits or fails*~~[so derived shall omit or fail]~~ to exercise the *power of appointment*,~~[same]~~ in whole or in part, within the time provided~~[therefor]~~, a transfer *of property* taxable under the provisions of this chapter shall be deemed to take place to the person or persons receiving *the*~~[such]~~ property as a result of such omission or failure to the same extent that *the*~~[such]~~ property would have been subject to taxation if it had passed under the will of the donee of *the*~~[such]~~ power *of appointment*.
- (c) The time at which *a*~~[such]~~ transfer *provided for by this subsection* shall be deemed to take place, for the purpose of taxation, shall be governed by the provisions of subsections (2) to (4) of this section.
- (2) (a) In the case of a power of appointment which passes to the donee~~[thereof]~~ at the death of the donor, under any instrument,~~[and if the donor dies on or after April 24, 1936,]~~ the transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donor and the assessment be made at that time against the life interest of the donee and the remainder against the corpus.
- (b) The value of the property to which the power of appointment relates shall be determined as of the date of the death of the donor and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donor.
- (c) The determination of the applicable rates and exemptions, ~~[(in effect at the death of the donor,)]~~ shall be governed by the relationship of the beneficiary to the donee of the power of appointment.
- (d) In the event the payment of the tax at the death of the donor should operate to provide an exemption for any beneficiary of a donee not authorized by KRS *140.070*~~[140.080]~~, then *that*~~[such]~~ exemption shall be

~~*retroactively*~~~~[retrospectively]~~ disallowed at the time of the death of the donee.

~~(e) [It is further provided that]~~The remainder interest passing under the donee's power of appointment, whether exercised or not, shall be added to and made a part of the distributable share of the donee's estate for the purpose of determining the applicable exemptions~~[exemption]~~ and rates~~[applicable thereto]~~.

(3) In all cases other than that described in subsection (2) of this section:

~~(a) The transfer shall be deemed to take place, for the purpose of taxation, at the time of the death of the donee; [.]~~

~~(b) [In such cases,]~~The value of the property to which the power of appointment relates shall be determined as of the date of the death of the donee and shall be taxed at the rates and be subject to the exemptions in effect at the death of the donee; and~~[.]~~

~~(c) The determination of the applicable rates and exemptions, [in effect at the death of the donee,]~~ shall be governed by the relationship of the beneficiary to the donee of the power of appointment.

(4) The provisions of subsection (2) of this section shall not preclude the taxation, at the death of the donee, of any transfer made by means of a power of appointment if ~~the~~~~[such]~~ transfer was not in fact reported to or a tax assessed thereon by the Department of Revenue within the period of limitation prescribed by KRS 140.160. If the transfer by the power of appointment is not so reported or a tax assessed thereon, the period of limitation prescribed in KRS 140.160 shall not begin to run until the death of the donee of such power.

~~(5) [The amendments to this section, adopted by the 1948 General Assembly, shall apply to all powers of appointment whether created before or after the effective date of said amendments.]~~It is the declared intention of the General Assembly to impose a tax upon every transfer of property by means of a power of appointment,

regardless of when or how created, and it is the declared intention of the General Assembly that the use of the power of appointment device shall not permit the transfer of property, to which such a power relates, to escape thereby the payment of state inheritance taxes.

➔Section 3. KRS 140.100 is amended to read as follows:

- (1) The Department of Insurance, on the application of the Department of Revenue, shall determine, and certify~~[in duplicate]~~ to the department, the value of any future or contingent estate, income or interest therein, limited, contingent, dependent, or determinable upon the lives of persons in being, upon the facts contained in the application or other facts submitted by the department. No fee shall be charged by the Department of Insurance for this service. The certificate shall be competent evidence that the method of computation therein is correct.
- (2) The value of every future, contingent, or limited estate, income, or interest for the purpose of this chapter shall be determined by the rules, methods, and standards of mortality and of value prescribed by the appropriate United States life mortality tables for ascertaining the value of life estates, annuities, and remainder interests except that the rate of interest assessed in computing the present value of all future interests and contingencies shall be four percent (4%) per annum.
- (3) When an annuity or a life estate is terminated by the death of the annuitant or life tenant, and the tax upon such interest has not been fixed and determined, the value of the interest for the purpose of taxation shall be that amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which the annuitant or life tenant was entitled to the annuity or was in possession of the life estate. The tax on these~~[such]~~ annuities and life interests shall be payable out of the corpus of the estate, unless otherwise provided under the terms of the will.
- (4) (a) Notwithstanding anything in this chapter to the contrary, the value of a

surviving spouse's interest in a trust or life estate which was exempt from Kentucky inheritance tax in the first spouse's estate pursuant to ~~the~~^[an] election made under paragraph (b) of this subsection~~[KRS 140.080(1)(a)]~~ shall be deemed to be equal to the entire value of the property held in the trust or life estate, at the surviving spouse's death, for Kentucky inheritance tax purposes in the surviving spouse's estate.

- (b) 1. The decedent's personal representative, or trustee or transferee absent a personal representative, may elect for the surviving spouse's inheritable interest to include the entire value of any trust or life estate which is in a form that qualifies for the federal estate tax marital deduction under 26 U.S.C. secs. 2056(b)(5) or 2056(b)(7) regardless of whether or not the federal estate tax marital deduction is elected for federal estate tax purposes.**
- 2. To be valid, the election provided for in subparagraph 1. of this paragraph shall be made in the form prescribed by the Department of Revenue and shall be filed on or before the due date of the tax return, including any extension of time to file, or with the first tax return filed, whichever is later.**

➔Section 4. The following KRS section is repealed:

140.080 Exemptions of inheritable interests.

➔Section 5. This Act applies to dates of death occurring on or after January 1, 2016, and the provisions of this Act shall be applied retroactively beginning on that date.