

Note: The appeal period has expired, pursuant to Iowa Admin. Code rule 701-7.19(8)(d) the Administrative Law Judge's proposed decision is adopted as the final decision by the Department.

Iowa Department of Inspections and Appeals
Division of Administrative Hearings
Wallace State Office Building
Des Moines, Iowa 50319

IN THE MATTER OF:

Case No. 23IDR0006

DANA BOTOS
815 Oak St.
South Bend, IN 46616

PROPOSED DECISION

INHERITANCE TAX

STATEMENT OF THE CASE

Dana Botos filed a protest with the Iowa Department of Revenue (Department) challenging an assessment for inheritance tax, penalty and interest dated April 1, 2022. This matter came on for telephone hearing on January 30, 2023. Mr. Botos appeared self-represented and participated. Assistant Attorney General Ryan Tang represented the Department. Also present on behalf of the Department was Lisa Krom.

The Department submitted exhibits A and B, which were admitted into the record. Following the hearing, the undersigned administrative law judge held the record open to allow Mr. Botos time to submit certain receipts of charitable donations, which are also now part of the record.

FINDINGS OF FACT

Gary Botos of Cedar Rapids, Iowa died testate on April 10, 2021. Gary was survived by two sons, Matthew Botos and Benjamin Botos, and his brother, Dana Botos. Matthew, Benjamin, Dana, and six other non-relative individuals were named beneficiaries of Gary's estate. (Exhibit A).

The Department issued a notice of assessment to Dana on April 1, 2022 assessing \$15,701.13 in inheritance tax, penalty, and interest. Dana filed a timely protest of the Department's assessment. (Exhibit B; Appeal Request).

It is undisputed that Dana inherited a portion of Gary's estate upon his death. However, Dana argued he should be exempted from paying inheritance tax as an immediate relative of the decedent. Alternatively, Dana argued if he is not exempt as a relative, his tax liability should be reduced by the amount of charitable contributions he made using inherited funds. (Botos Testimony; Receipts).

CONCLUSIONS OF LAW

The Department's Director administers the assessment and tax laws in Iowa.¹ The Iowa Legislature has granted the Department's Director the express authority to adopt rules "for the orderly and methodical performance" of the Director's duties.²

As a general rule, a taxpayer challenging the Department's tax assessment has the burden of proving the Department's decision was erroneous by a preponderance of the evidence.³

This case concerns an assessment of inheritance tax, penalty, and interest issued by the Department. Iowa Code section 450 governs inheritance tax. Real estate and tangible personal property located in Iowa and intangible property owned by a decedent domiciled in Iowa, which passes from a decedent owner by will or under statutes of inheritance is subject to Iowa inheritance tax.⁴

In computing the tax on the net estate, the entire amount of property, interest in property, and income passing to the surviving spouse, lineal ascendants, lineal descendants, and stepchildren and their lineal descendants are exempt from tax.⁵

When the property taxable under Iowa Code chapter 450 or any interest or income in taxable property, passes to the brother or sister, son-in-law, or daughter-in-law, the transfer is subject to a rate of tax as follows:⁶

- a. Give percent on any amount up to twelve thousand five hundred dollars.
- b. Six percent on any amount in excess of twelve thousand five hundred dollars and up to twenty-five thousand dollars.
- c. Seven percent on any amount in excess of twenty-five thousand dollars and up to seventy-five thousand dollars.
- d. Eight percent on any amount in excess of seventy-five thousand dollars and up to one hundred thousand dollars.
- e. Nine percent on any amount in excess of one hundred thousand dollars and up to one hundred fifty thousand dollars.
- f. Ten percent on all sums in excess of one hundred fifty thousand dollars.

Dana is the decedent's brother. Therefore, the property Dana inherited from the estate is subject to inheritance tax at the rates listed above. Although Dana argued the charitable contributions he made with inherited funds should be deducted from his tax liability, he offered no legal authority to support his argument, and the undersigned administrative law judge knows of none to support his claim.

¹ Iowa Code § 421.17.

² Iowa Code § 421.14.

³ Iowa Code § 421.60(6)(c); *see also Clark v. Iowa Dept. of Rev. & Fin.*, 644 N.W.2d 310, 315 (Iowa 2002)(finding the burden is on the taxpayer challenging the tax assessment).

⁴ Iowa Code § 450.2.

⁵ Iowa Code § 450.9.

⁶ Iowa Code § 450.10(1).

For these reasons, the Department's decision must be AFFIRMED.

cc: Dana Botos (via mail); Lisa Krom (via email); Ryan Tang (via AEDMS); Kelsie Royster (via AEDMS).

NOTICE

Pursuant to 701 Iowa Administrative Code 7.19(8)(d), this order becomes the final order of the Department for purposes of judicial review or rehearing unless a party files an appeal to or review on motion of the director with 30 days of the date of this order, including Saturdays, Sundays and legal holidays, of the date of this Proposed Decision to file an appeal to the Director of the Department of Revenue. The appeal shall be directed to:

Office of the Director
Iowa Department of Revenue
Hoover State Office Building
Des Moines, Iowa 50319

Case Title: IN THE MATTER OF: DANA BOTOS

Case Number: 23IDR0006

Type: Proposed Decision

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to be 'K. Dreckman', written over a horizontal line.

Kristine Dreckman, Administrative Law Judge