TAXES AFTER DEATH  Written by Jan L. Brown, Esquire

Following is an overview of taxes that should help you understand your particular tax situation.

The first tax is the Pennsylvania Inheritance Tax. This tax is assessed against your total or gross estate minus the costs of administration, any debts, the funeral and burial expenses, and the expenses from your last illness.

The inheritance tax payment is due within nine (9) months from the date of death. Any payments received by the Department of Revenue within nine (9) months of the date of death will not incur interest or penalties. Payments made within three (3) months of death will receive a discount. The tax rate used to determine the tax is dependent upon the relationship of the beneficiaries to the decedent. The tax rate for charities and spouses is 0%; the tax rate for children, parents, grandchildren, stepchildren, sons-in-law and daughters-in-law is 4.5%; the tax rate for siblings is 12% and the tax rate for nieces, nephews and other collateral relationships is 15%.

For jointly held assets, one-half interest of the asset will be taxed; however, if the asset or account had not been held or titled jointly for a full year prior to death, the entire value of the asset or account will be taxed.

Whether retirement benefits are subject to Pennsylvania Inheritance Tax depends on the type of account and the account terms. Life insurance proceeds are not subject to Pennsylvania Inheritance Tax. Annuities, IRAs and 401Ks are generally subject to tax.

A second tax which applies only to persons with higher wealth levels is the federal estate tax. Estates over $2,000,000 may be liable for federal estate tax. This amount ($2,000,000) will increase over the next several years so that by 2009 you will able to pass $3,500,000 to your beneficiaries without incurring federal estate tax and in 2010, you can pass any amount without paying federal estate tax. However, in 2011, the federal exclusion tax ceiling is reduced to $1,000,000, unless Congress changes the tax law.

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The federal estate tax rate is a very high rate, up to 46%. Careful estate planning often can significantly reduce or completely eliminate federal estate tax. You should review what planning options are available to you with any experienced attorney.

Finally, income tax will apply to any tax deferred retirement accounts you own such as IRAs or tax deferred annuities. The income tax payments can usually be made by your beneficiaries over a period of years. The options available regarding paying the tax depend upon several factors including whether the decedent had begun taking distributions from the account and the relationship of the beneficiary to the decedent.

A vital part of your estate planning is tax planning. You should seek the counseling and advice of a qualified, knowledgeable and experienced attorney regarding the most effective way to reduce the tax liability of your estate and make sure your beneficiaries receive as much of your estate as possible.