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# The Inheritance and Estate Tax Act

(Article XXI of the Tax Reform Code of 1971, Act of March 4, 1971, P.L. 6, No. 2, added by Act of Aug. 4, 1991, P.L. 97, No. 22, as amended.)

## PART V VALUATION

### Section 2121. Valuation.

\_\_\_(a) Except as otherwise provided in this part, the valuation date shall be the date of the transferor's death. When the transfer was made during lifetime and was not in trust, the property transferred shall be valued at the transferor's death. When the transfer was to an inter vivos trust, the property to be valued shall be that comprising the portion of the trust, if any, which exists at the transferor's death and which portion is traceable from property the transfer of which is subject to tax under this article.

\_\_\_(b) The value of a life interest shall be determined in accordance with rules and regulations promulgated by the department. Until the promulgation of rules and regulations to the contrary, the regulations in effect for Federal estate tax purposes shall apply.

\_\_\_(c) The value of an interest for a term certain shall be determined in accordance with rules and regulations promulgated by the department. Until the promulgation of rules and regulations to the contrary, the regulations in effect for Federal estate tax purposes shall apply.

\_\_\_(d) If an annuity or a life estate is terminated by the death of the annuitant or life tenant or by the happening of a contingency within nine months after the death of the transferor, the value of the annuity or estate shall be the value, at the date of the transferor's death, of the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period he was entitled to the annuity or was in possession of the estate. If an appraisal of an annuity or life estate has been filed before the termination, the appraisal and any assessment based on the appraisal shall be revised in accordance with this section upon request of any party in interest, including the Commonwealth and the personal representative, insofar as the appraisal and any assessment based on the appraisal relates to the valuation of the terminated annuity or life estate, without the necessity of the party in interest following any procedure described in Part XI.

\_\_\_(e) The value of a future interest shall be determined in accordance with rules and regulations promulgated by the department. Until the promulgation of rules and regulations to the contrary, the regulations in effect for Federal estate tax purposes shall apply.

\_\_\_(f) When a decedent's property is subject, during his lifetime and at the time of his death, to a binding

option or agreement to sell, the appraised value of the property shall not exceed the amount of the established price payable for it provided the option or agreement is a bona fide arrangement and not a device to transfer the property for less than an adequate and full consideration in money or money's worth. If the option or agreement is not exercised and consummated, the value at which the property is appraised shall not be limited to the established price payable for the property, and it shall not exceed the value of the property on the date of the transferor's death. When tax has been assessed on the basis of an established price and the option or agreement is not exercised and consummated or an amount greater than the established price is received for the property, the fiduciary or transferee shall file a supplemental return reporting the facts.

**Section 2122. Valuation of Certain Farmland.**

\_\_\_(a) The following words and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

\_\_\_ "Agricultural commodity." Any and all plant and animal products, including Christmas trees produced in this Commonwealth for commercial purposes.

\_\_\_ "Agricultural reserve." Noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on a nondiscriminatory basis.

\_\_\_ "Agricultural use." Use of the land for the purpose of producing an agricultural commodity or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

\_\_\_ "Forest reserve." Land, ten acres or more, stocked by forest trees of any size and capable of producing timber or other wood products.

\_\_\_ "Separation." A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this section into two or more tracts of land which continue to be agricultural use, agricultural reserve or forest reserve and all tracts so formed meet the requirements of section 3 of the Act of December 19, 1974 (P.L. 973, No. 319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974."

\_\_\_ "Split-off." A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this section into two or more tracts of land, the use of which on one or more of such tracts does not meet the requirements of section 3 of the Act of December 19, 1974 (P.L. 973, No. 319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974."

\_\_\_(b) (1) The value for transfer inheritance tax purposes of land or an interest in land which is owned by a decedent and devoted to agricultural use, agricultural reserve or forest reserve shall be that value which such land has for its particular use if it also meets the following conditions:

\_\_\_\_\_ (i) in the case of land devoted to agricultural use, the land was devoted to such agricultural use for the three years preceding the death of such decedent and is not less than ten contiguous acres in area or has an anticipated yearly gross income derived from agricultural use of two thousand dollars (\$2,000);

\_\_\_\_\_ (ii) in the case of land devoted to agricultural reserve, the land is not less than ten contiguous acres in area;

\_\_\_\_\_ (iii) in the case of land presently devoted to forest reserve, the land is not less than ten contiguous acres in area; or

\_\_\_\_\_ (iv) the contiguous tract of land for which application is made is not less than the entire contiguous area of the owner used for agricultural use, agricultural reserve or forest reserve purposes.

\_\_\_\_\_ (2) In determining the value of land in agricultural use, agricultural reserve or forest reserve for its particular use, consideration shall be given to available evidence of such land's capability for its particular use as derived from the soil survey at The Pennsylvania State University, the National Cooperative Soil Survey, the United States Census of Agricultural Categories of land use classes and other evidence of the capability of the land devoted to such use and also, if the land is assessed under the provisions of the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," to the valuation determined by the local county assessor thereunder.

\_\_\_\_ (c) (1) If any tract of land in agricultural use, agricultural reserve or forest reserve, which is valued for inheritance tax purposes under the provisions of this part, is applied to a use other than agricultural use, agricultural reserve or forest reserve or for any other reason, except condemnation thereof, is removed from the category of land preferentially valued under this part within seven years following the death of such decedent, the owner at such time the land is so removed shall be subject and liable to tax due the Commonwealth in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation authorized under this section and the taxes that would have been paid or payable had that land been valued and taxed on the basis of its market value at the death of the decedent, plus interest thereon for the period from the date of death to the change of use at the rate established in [section 2143](#).

\_\_\_\_\_ (2) The tax shall be a lien upon the property in favor of the Commonwealth, collectible in the manner provided by law for the collection of delinquent real estate taxes, as well as the personal obligation of the owner at the time of such change of use. The tax shall become due on the date of change of use.

\_\_\_\_\_ (3) Every owner of land preferentially valued under this section shall notify the register of wills of the county or counties in which the land is located of any change or proposed change in the use of the land. Any owner failing to make notification commits a misdemeanor of the third degree.

\_\_\_\_ (d) (1) The split-off of a part of the land which has been valued, assessed and taxed under this article for a use other than agricultural use, agricultural reserve or forest reserve within the seven-year period provided for by subsection (c) shall, except when the split-off occurs through condemnation, subject the land divided and the entire parcel from which the land was divided to liability for taxes as otherwise set forth in this article except as provided in subclause (2).

\_\_\_\_\_ (2) The owner of property subject to a preferential tax assessment may split off land covered by the preferential tax assessment within the seven-year period. The tract of land so split-off shall not exceed two acres annually and may only be used for residential use, agricultural use, agricultural reserve or forest reserve and the construction of a residential dwelling to be occupied by the person to whom the land is transferred. The total parcel or parcels of land split-off under the provisions of this subsection shall not exceed ten per cent or ten acres, whichever is less, of the entire tract subject to the preferential tax

assessment. The split-off of a parcel of land which meets the requirements of this subsection shall not invalidate the preferential tax assessment if it continues to meet the requirements of subsection (b).

\_\_\_\_\_(3) The owner of property subject to a preferential use assessment may separate land covered by the preferential use assessment. The separation shall not invalidate the preferential tax assessment unless a subsequent abandonment of preferential use occurs within seven years of the separation. The abandonment shall subject the entire tract of land separated to liability for taxes, which are to be paid by the person changing the use, as set forth in this article.

\_\_\_\_\_(4) When property subject to preferential tax assessment is separated among the beneficiaries taxed under subsection (a)(1) of [section 2116](#), a subsequent change within the seven-year period provided for in subsection (b) in the use of one beneficiary's portion of the property shall subject only that tract held by the beneficiary who changes the use to liability under this article.

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