



## Understanding the Basics of Nebraska Inheritance Tax Laws

Nebraska is one of a few states that imposes an inheritance tax on any property transferred from a deceased individual (a decedent) to his or her beneficiary as a result of the individual's death. Nebraska's inheritance tax applies to all assets owned by a Nebraska resident at the time of his or her death and any nonresidents who own Nebraska real estate or tangible personal property physically located in Nebraska are subject to the tax. There are some exceptions and deductions that apply.

Nebraska's inheritance tax rate is determined by the beneficiary's relationship to the decedent. There is no inheritance tax imposed on transfers to spouses. The laws are favorable to transfers to immediate family members such as parents, grandparents, children, and siblings. The rate for immediate family members of the decedent is 1% of the clear market value of the property received in excess of \$100,000 by each person.

The inheritance tax rate for remote relatives of the decedent such as aunts, uncles, nieces, and nephews is 11% of the clear market value of the property received in excess of \$40,000 by each person. The inheritance tax rate goes up to 15% of the clear market value of the property received in excess of \$25,000 by each person for all other beneficiaries of the decedent.

Any tax owed as a result of Nebraska's inheritance tax must be paid within one year of the decedent's date of death. If the tax is not paid, interest accrues at a rate of 14% per year. A 5% penalty per month will be imposed on the unpaid tax (up to 25% maximum).

Nebraska inheritance tax fully exempt assets include:

- Real estate and tangible personal property located outside of Nebraska;
- Life insurance proceeds (except for any life insurance payable to the decedent's estate); and
- Money and property that immediate family members are entitled to under the homestead allowance, exempt property right, and/or family maintenance allowance.

In addition to the transfer of fully exempt assets, there are also other types of transfers that are not subject to Nebraska inheritance tax. Such transfers include the following:

- Assets transferred to a qualified charitable organization or a federal, state, or local governmental entity;
- Assets transferred to the decedent's surviving spouse; and
- Gifts finalized more than three years prior to the decedent's death.

There are ways to reduce the impact of Nebraska inheritance tax. While it may not always be possible to completely omit Nebraska's inheritance tax, there are several strategies that may help reduce it with proper advance planning. A few of those strategies are discussed below.

Pre-death gifting or transfers are excluded from Nebraska's inheritance tax as long as the gifts or transfers are made more than three years prior to the decedent's death. Any assets that are gifted or transferred by the decedent within three years of the decedent's death are subject to Nebraska inheritance tax.

Gifts to any person that are made within three years of the decedent's date of death are excluded if the gift is not required to be reported on a federal gift tax return (IRS Form 709). Nebraska's inheritance tax does not apply to any "annual exclusion" gifts made by the decedent before the decedent's death, since such gifts do not need to be reported on a Form 709. The annual gift exclusion for 2024 is \$18,000 per donee.

These exclusions listed above for pre-death gifts provide planning opportunities to avoid or reduce Nebraska inheritance tax.

It is always important to consider any income tax consequences of gifting.

Nebraska's inheritance tax rate is lower than the combined federal and state income tax rates. If you are considering non-cash gifts, it should be evaluated if the loss of

income tax “step up” basis will result in an overall higher tax consequence.

**RELATIONSHIP TO DECEDENT**

**TAX RATE**

|  |                           |
|--|---------------------------|
| Surviving spouse   | Always exempt             |
| Parents, grandparents, siblings, children                    | 1% in excess of \$100,000 |
| Uncles, aunts, nieces, nephews, and other lineal descendants | 11% in excess of \$40,000 |
| All others (i.e. friends, neighbors, etc.)                   | 15% in excess of \$25,000 |
| Charitable organizations                                     | Usually exempt            |

In addition to the exempt transfers discussed above, many expenses can reduce Nebraska’s inheritance tax obligation. The following expenses can be deducted from the value of assets subject to Nebraska’s inheritance tax:

- All costs of the decedent’s funeral;
- All expenses of the administration of the estate;
- All expenses from the decedent’s last illness (incurred within six months of death);
- Any debts that the decedent was liable for at the time of his or her death; and
- Any payment of federal estate taxes.

When planning for the future, it is crucial to consult with an estate planning attorney to ensure that you are reducing your tax consequences and utilizing all of your tax exemptions available while meeting your estate planning goals. Another crucial consideration to discuss with your estate planning attorney is whether or not your tax consequences may be reduced by creating a trust versus a will.

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