
Rules of Department of Revenue

Division 10—Director of Revenue

Chapter 8—Inheritance and Estate Tax

Title		Page
12 CSR 10-8.010	Definitions	3
12 CSR 10-8.020	Property Subject to Tax	3
12 CSR 10-8.030	Federal Death Tax Credit	4
12 CSR 10-8.040	Homestead Allowance	4
12 CSR 10-8.050	Interest	4
12 CSR 10-8.060	Payment of Tax—Receipt—Refund	4
12 CSR 10-8.070	Probate Court to Determine Tax—Procedure	5
12 CSR 10-8.080	Appraisers Duties and Report of Appraisal	6
12 CSR 10-8.090	Errors in Appraiser’s Reports—Exceptions to Appraiser’s Report	6
12 CSR 10-8.100	Report of Appraiser	7
12 CSR 10-8.110	Valuation of Life Estates and Remainder—Methods of Computation—Morality Table	7
12 CSR 10-8.120	Notice of Intention to Transfer Assets	7
12 CSR 10-8.130	Exercise of Power of Appointment—Unlimited Power of Encroachment	8
12 CSR 10-8.140	Refund	8
12 CSR 10-8.150	Mortality Table	8
12 CSR 10-8.160	Estate Tax Interest Rate	9
12 CSR 10-8.170	Extension of Time to Pay Missouri Estate Tax	9
12 CSR 10-8.180	Claims for Refund of Missouri Estate Taxes When Paid in Installations	10
12 CSR 10-8.190	Missouri Estate Tax Base	10

**Title 12—DEPARTMENT OF
REVENUE**

**Division 10—Director of Revenue
Chapter 8—Inheritance and Estate Tax**

12 CSR 10-8.010 Definitions

PURPOSE: This rule is intended as a general guideline in defining terms used in 12 CSR 10-8.010–12 CSR 10-8.150.

(1) The terms defined in section 145.010, RSMo (1969) will have the same meaning when used in these rules.

(2) The term director, unless otherwise specifically provided in this rule, shall mean the director of revenue or his/her duly authorized agent or designee.

(3) The term report shall mean the report of appraiser, inheritance tax short form assessment or estate tax appraisal, required by chapter 145, RSMo (1969).

(4) The term report of appraiser shall mean the form prescribed and furnished by the director for use by the appraiser when reporting the taxable assets of an estate, the deductions allowed by the probate court, exemptions allowed under section 145.090, RSMo and amount of tax assessment under section 145.150.3, RSMo (1969).

(5) The term inheritance tax short form assessment shall mean the form prescribed and furnished by the director used for reporting assessment of tax in small estates, consisting of personal property only, under section 145.150.5, RSMo (1969).

(6) The term estate tax appraisal shall mean the form prescribed and furnished by the director used for reporting estate tax under sections 145.070 and 145.080, RSMo (1969).

(7) The term consent to transfer or deliver assets shall mean the form prescribed and furnished by the director used to give ten (10)-day notice to the director of intention to transfer assets of an estate, as required under section 145.210, RSMo (Supp. 1975).

(8) The term conditional consent to transfer or deliver assets shall mean the form prescribed and furnished by the director used to give the director notice of intention to remove the contents of a safe deposit box, as required by section 145.210, RSMo (Supp. 1975).

(9) The family allowance is exempt from all claims. Under section 474.260, RSMo (1969), the surviving spouse is entitled to a reasonable allowance in money out of the estate for his/her maintenance during the period of one (1) year, after the death of the spouse. If there is no spouse, the allowance shall be made to the unmarried minor children. The allowance is in addition to the exempt property and homestead allowance.

(10) Exempt property in no case is liable for the payment of claims against the estate. Under section 474.250, RSMo (1969) the surviving spouse or unmarried minor children of a decedent are entitled absolutely to the following property of the estate without regard to its value: the family Bible and other books, all wearing apparel of the family, all household electrical appliances, all household musical and other amusement instruments, all household and kitchen furniture, appliances, utensils and implements. This property belongs to the surviving spouse, if any, otherwise to the unmarried minor children in equal shares.

(11) Under section 474.290, RSMo (1969), a homestead allowance is granted after the estate inventory required by section 473.233, RSMo (1969) is filed. The court, on application of the surviving spouse or of the guardian or person having custody of the persons of the unmarried minor children of a decedent, shall make an allowance to the surviving spouse or unmarried minor children of an amount not exceeding fifty percent (50%) of the value of the estate, exclusive of exempt property and family allowance, but in no case to exceed seven thousand five hundred dollars (\$7500). If an unmarried minor child of the decedent receives a homestead allowance in excess of five thousand dollars (\$5000), his/her exemption is the amount of the homestead allowance rather than five thousand dollars (\$5000).

*AUTHORITY: sections 136.030 and 136.120, RSMo 1986. * Inheritance tax rule 61-010 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.020 Property Subject to Tax

PURPOSE: This rule shall serve as an interpretive guideline under section 145.020, RSMo (1969) in determining property subject to tax.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Omission of a particular asset from this rule does not exempt that property from inheritance tax.

(2) Real property located within this state is subject to inheritance tax under section 145.020, RSMo (1969) (Op. Atty. Gen., July 12, 1934).

(3) Tangible personal property is subject to tax only in the state in which it is located under section 145.020, RSMo (1969) (Op. Atty. Gen., July 12, 1934).

(4) Intangible personal property belonging to a resident decedent is subject to tax wherever situated. Intangible personal property includes stocks, bonds, notes, goodwill, accounts receivable, leasehold interests, claims, debts, partnership interests, patents and other choses in action whether held in trust or otherwise.

(5) The interest in partnership property is an intangible taxable in the state of the decedent's domicile even though part of the property is real estate located in another state (Op. Atty. Gen., March 22, 1937).

(6) Assets payable on death to a named beneficiary (that is United States Government Bonds, etc.), are subject to inheritance tax under the provisions of section 145.020, RSMo (1969).

(7) Insurance proceeds payable to decedent's estate are subject to inheritance tax.

(8) Proceeds of a single premium life insurance and annuity contract wherein the right to have the premium returned at any time is retained by the insured, are subject to inheritance tax.

(9) Proceeds of an annuity contract payable to a named beneficiary upon the death of the annuitant are subject to inheritance tax as a transfer made to take effect in possession or enjoyment at or after death of the transferor. This contract is taxable even where no funds were payable to decedent during his/her lifetime and when decedent could not obtain a refund of premiums, but did have the right to change the beneficiary at any time.

(10) The proceeds of a matured endowment policy left with the company as an investment are taxable (Op. Atty. Gen. No. 40, June 5, 1958, and No. 66, January 6, 1936).

(11) A gift is taxable if the gift has not been completed by delivery prior to death of decedent. Delivery is essential to complete a gift. The term “transfer to take effect in possession or enjoyment at or after death,” is defined as those transfers in which the transferor has retained for his/her life or any period not ending before his/her death, the possession or enjoyment of or the income from the property or the right to designate the persons who shall possess or enjoy the property or the income therefrom. Thus, if a person transfers property in trust for a child but reserves the right to the income for life, the transfer to the child does not become effective in enjoyment until the death of the donor. The law accordingly regards such a transfer as a testamentary disposition and the donor has parted with nothing but the legal title during his/her lifetime (Op. Atty. Gen., December 7, 1950).

(12) Bequests to cemeteries wherein provisions are made for the beautification and care of specific plot(s), for the benefit of an individual, are subject to inheritance tax (Op. Atty. Gen No. 57, January 6, 1955).

(13) Damages received under the wrongful death statutes are not subject to inheritance tax, as they are not received from the decedent in the form of a taxable transfer (Op. Atty. Gen., March 17, 1950).

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-020 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.030 Federal Death Tax Credit

PURPOSE: This rule is intended as an interpretive guideline as to those matters considered by the Department of Revenue in determining the liability of the estate to pay Missouri estate tax regardless of whether or not the time has expired for the estate to claim the death tax credit refund from the federal government.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Missouri estate tax imposed by section 145.070, RSMo (1969) does not depend upon the actual acceptance of the death tax credit. The fact that the estate did not claim the death tax credit does not relieve the estate from the duty and liability to pay the

Missouri estate tax even though the time has expired for the estate to claim the death tax credit and claim a refund from the federal government.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-070 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.040 Homestead Allowance

PURPOSE: This rule shall serve as an interpretive guideline under sections 145.090(3) and 145.090(5), RSMo (1969) in determining the homestead allowance for the surviving spouse and unmarried minor children of a decedent.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Homestead is not an allowable deduction in computing clear net market value nor is it an exemption for the surviving spouse because it is included in the twenty thousand dollar (\$20,000) exemption according to section 145.090(3), RSMo (1969); however, if an unmarried minor child of the decedent receives a homestead allowance in an amount in excess of five thousand dollars (\$5000), his/her exemption is the amount of the homestead allowance rather than the five thousand dollars (\$5000) allowed by section 145.090(5), RSMo (1986).

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-090 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.050 Interest

PURPOSE: This rule is intended as an interpretive guideline in determining taxes and interest, when due, under section 145.110, RSMo (1986).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Interest is charged if tax is not paid within nine (9) months from the death of the decedent or within any extension allowed by the

court. Interest is charged from the date of death.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-110 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.060 Payment of Tax—Receipt—Refund

PURPOSE: This rule is intended as an interpretive guideline in determining when money is to be paid to the director of revenue—issuance of a receipt therefore, and taxes paid erroneously to be refunded, under sections 145.140 and 145.250, RSMo (1986).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) It is not necessary that the taxpayer receives a statement before submitting check for amount of tax due the state of Missouri, ninety-seven and one-half percent (97 1/2%), as assessed by the appraiser’s report. Inheritance tax payment must be made by cashier’s check, certified check or fiduciary account check, payable to the director of revenue, and mailed to the inheritance tax bureau P.O. Box 27, Jefferson City, MO 65105.

(2) When the report is in error, moneys received will be deposited and a receipt issued as a partial payment. Upon receipt of an amended report and proper remittance, a receipt for full payment will be issued. The original receipt in all cases is mailed to the probate court and a copy to payor.

(3) If an overpayment occurs, proceedings for a refund will be commenced immediately on the basis of reassessment on the amended report or by court order under section 145.250, RSMo (1986).

(4) Partial payment in an amount to satisfy the federal taxing authority is allowable and a receipt and certificate of payment will be issued showing the partial payment upon request.

(5) A statement of tax due the state of Missouri is sent to the executor or administrator, unless the name and address of the attorney for the estate is given on the report or other instructions accompany the report.



Name and complete address of the estate officers should be indicated on the report for correspondence and billing purposes.

(6) The director of revenue, in his/her discretion, may refuse to issue receipt for state inheritance tax payments until the estate tax appraisal has been received, examined and approved.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-140 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.070 Probate Court to Determine Tax—Procedure

PURPOSE: This rule is intended as a guideline as to the matter of allowable claims and deductions against the estate under section 473.360, RSMo 1969 and exceptions thereto under sections 473.367 and 473.370, RSMo (1969), and includes certain procedural methods of tax computations.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Claims against the estate of a deceased person must be filed in the probate court within six (6) months after the first published notice of letters testamentary or of administration (section 473.360, RSMo (1969), except as provided by sections 473.367 and 473.370, RSMo (1969)).

(2) The family allowance is properly reported as a deduction and not an exemption. The same is true of exempt property if it has been included in the inventory and subsequently distributed to the surviving spouse.

(3) Absent direction by testator to place the burden of federal estate taxes on property which did not generate the federal estate tax, the deduction for inheritance tax purposes of federal estate tax is limited to the proportional part of the federal estate tax which represents a tax on probate assets. Example: The gross Missouri estate divided by the gross federal estate equals the percentage ratio. The percentage ratio times the amount of federal estate tax paid equals the allowable deduction for inheritance tax purposes.

(4) Trustee's commission on the transfer of an interest from the life tenant to the remainderman which is to be paid out of the corpus may be allowed as a deduction to the remain-

der interest. The commissions are not a deduction for the life tenant, unless the corpus is taxed all to the life tenant with power of appointment on the theory that such a tenant in effect has the fee. The deduction should not be shown on the deduction schedule unless it is added back to the clear net market value of the estate when determining the life estate.

(5) If the bequest in a will creates a joint tenancy in the devisees, the exemption of the two (2) beneficiaries is totaled and the tax is computed at the average of the combined rates of the beneficiaries. (Op. Atty. Gen. No. 40, January 6, 1971.)

(A) Example. A bequest of fifteen thousand dollars (\$15,000) to a son and his wife is computed as follows:

Total value of interest	\$15,000.00
Less combined exemption of son and daughter-in-law	\$ 5,500.00
Value of interest subject to tax	\$ 9,500.00
Times mean rate (1% + 3% = 4% ÷ 2 = 2%)	\$.02
Tax due	\$ 190.00

(B) Example. Bequest to devisees as joint tenants where there is also a specific bequest to one devisee. If the will creates a joint bequest to son and wife in the amount of twenty thousand dollars (\$20,000), and further devisees a specific bequest in the amount of fifty thousand dollars (\$50,000) to the son, computations would be as follows:

Total value of interest in joint bequest	\$20,000.00
Less combined exemptions of son & daughter-in-law	\$ 5,500.00
Value of interest subject to tax	\$14,500.00
Times mean rate (1% + 3% = 4% ÷ 2 = 2%)	\$.02
Tax due	\$ 290.00

Computation of tax on specific bequest of fifty thousand dollars (\$50,000) to the son where devisee has an unused remainder in a percentage bracket after calculating interest of bequest to devisees as joint tenants.

One-half of \$20,000 = \$10,000 - \$5000 = \$5000 (son's share in 1% bracket)

Value of interest subject to tax = \$50,000 (exemption consumed in previous bequest)

\$20,000 - \$5000 = \$15,000 × 1% =	\$ 150
\$20,000 × 2% =	\$ 400
\$15,000 × 3% =	\$ 450
Tax on specific bequest	\$1000
Tax on joint bequest	\$ 290
Total tax due	\$1290

(6) If the will contains language to the effect that inheritance taxes are not to be charged against or deducted from the share of the devisees, but they are to receive their bequests clear of tax, this constitutes the bequest of an additional sum to all specific devisees sufficient to pay the tax on their bequests. It does not affect anyone who participates in the residuary. (Op. Atty. Gen. No. 3, October 24, 1938.)

(A) Example. Specific bequest of eighteen thousand dollars (\$18,000) to a son—tax on tax computation:

Total value of interest	\$18,000.00
Minus legal exemption	\$ 5,000.00
Value of interest subject to tax	\$13,000.00
Times rate of tax	\$.01
Amount of tax	\$ 130.00
Tax on \$130 × 1% =	\$ 1.30
Tax on \$1.30 × 1% =	\$.01
Tax on tax	\$ 131.31
Value of interest	\$18,000.00
Plus tax on tax	\$ 131.31
Total bequest	\$18,131.31
Less exemption	\$ 5,000.00
Value of interest subject to tax	\$13,131.31
Times rate of tax	\$.01
Total tax due	\$ 131.31

(7) Computing tax on tax when tax falls in the next highest bracket.

Total value of interest	\$77,500.00
Less legal exemption	\$ 500.00
Value of interest subject to tax	\$77,000.00
\$20,000 × 3% =	\$77,600.00
\$20,000 × 6% =	\$ 1,200.00
\$37,000 × 9% =	\$ 3,333.00
Amount of tax	\$ 5,130.00

Tax on Tax computation:

Amount remaining in 9% bracket	
\$3000.00 × 9% =	\$270.00
\$ 270.00 × 9% =	\$ 24.30
\$ 24.30 × 9% =	\$ 2.19
\$ 2.19 × 9% =	\$.20
\$.20 × 9% =	\$.02
	\$296.71

Amount remaining in 12% bracket

\$2130.00 × 12% =	\$ 255.60
\$ 255.60 × 12% =	\$ 30.67
\$ 30.67 × 12% =	\$ 3.68
\$ 3.68 × 12% =	\$.44
\$.44 × 12% =	\$.05
	\$ 290.44
	\$ 296.71
	\$5130.00
Tax on Tax	\$5717.15



Total value of interest	\$77,500.00
Plus tax on tax	\$ 5,717.15
Total bequest	\$83,217.15
Less exemption	\$ 500.00
Value of interest subject to tax	\$82,717.15
\$20,000.00 × 3% =	\$ 600.00
\$20,000.00 × 6% =	\$ 1200.00
\$40,000.00 × 9% =	\$ 3600.00
\$2717.15 × 12% =	\$ 326.06
Total tax due	\$ 5726.06

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-150 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.080 Appraisers Duties and Report of Appraisal

PURPOSE: This rule shall serve as an interpretive guideline as to those matters concerning the assessment of inheritance and estate tax and preparation of the report of appraiser under section 145.160, RSMo (1969).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

- (1) The name and address of the estate's attorney should appear on all reports of appraiser, inheritance short form assessments and estate tax appraisals.
- (2) Every taxable asset and allowed deduction must be listed by category on the report of appraiser or listings attached if space on the report is not available.
- (3) If property listed in the inventory required by section 473.233, RSMo (1986) is not taxable, a brief statement must be made as to the basis for it not being taxable.
- (4) Indicate whether stock listed on the report is listed on an exchange, sold over-the-counter or closely held.

(A) Stocks and bonds listed on a security exchange must be valued at the average of the high and low prices on the date of death. If the death occurs on a date on which the exchange is closed, the average of the closing price on the last trading date preceding the date of death and the opening price on the first trading date following the date of death must be used.

(B) Stock traded over-the-counter must be valued at the bid price on the date of death.

(C) A statement must be attached explaining the method of valuation used for closely held stock.

(5) United States Government Bonds.

(A) Treasury notes and bonds which are sold on the open market must be valued like over-the-counter securities.

(B) Current income bonds which may be redeemed at face value without penalty by the executor or administrator must be valued at face value regardless of whether the bonds are actually so redeemed.

(C) Bonds which may be used at face value to pay federal estate taxes must be valued at face value to the extent they can be used by the estate to pay the taxes. Thus, if the federal estate tax exceeds the value of the bonds, they must all be valued at par. If the amount of the bonds exceeds the federal estate tax, then only so many of the bonds as may be used to pay the federal estate tax should be valued at par. The remainder must be valued as set out previously.

(D) "E" bonds must be valued at their redemption value as of the date of death, not face or maturity value.

(6) A recapitulation in every case shall be completed by the appraiser and must balance with the assets and liabilities shown on the report. The net estate shown in the recapitulation must agree with the total amount of estate distributed. Reports not complying with this requirement will be returned to the probate court.

(7) When the estate consists of personal property only, the prosecuting attorney, with the consent of the director, may agree with the parties liable to pay any tax upon the amount of same, and the probate court, if it approves the agreement, shall enter judgment accordingly and no appraiser shall be appointed. Form of consent for prosecuting attorney to agree on amount of inheritance tax is furnished by the director upon request. The report of appraiser or inheritance tax short form assessment may be used for reporting tax for this type of estate.

(8) If the will of the decedent has been contested, the appraiser cannot complete his/her report until the will contest suit has been disposed of. The director should be notified that there is a will contest. Whether the suit is settled or is tried and a judgment rendered, the inheritance taxes must be assessed on the actual amounts received from the estate by various parties (*Estate of Gartside v. Morris, (1947) 357 Mo. 181,207 SW2d 273*). A copy of the judgment must be attached to the

report. If the suit is settled, a copy of the settlement agreement must be an attachment to the report. Unless the assignment of interest is in settlement of a will contest, assignments of interest do not effect inheritance taxes. The tax is assessed as if the assignment had not been made (*Op. Atty. Gen. No. 33, February 10, 1950*).

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-160 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.090 Errors in Appraiser's Reports—Exceptions to Appraiser's Report

PURPOSE: This rule is intended as a guideline for the filing of exceptions, when an interested party feels any part of the appraiser's report to be in error under section 145.170, RSMo (1969).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

- (1) Reports of appraisers are examined by the director. Errors will be called to the attention of the probate judge, appraisers and interested parties, requesting an amended report be filed with the probate court under the provisions of section 145.180, RSMo (1969). The appraiser should immediately contact the probate court when errors in an appraiser's report occur. The probate judge must always be advised by the appraiser of any action before forwarding an amended report to the director of revenue. If an amended report approved by the court is not provided, the director may file exceptions to the report under section 145.170, RSMo (1969).
- (2) Exceptions to the report of appraiser must be served on the director of revenue within thirty (30) days after the date the report is filed.

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-170 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*



12 CSR 10-8.100 Report of Appraiser

PURPOSE: This rule shall serve as an interpretive guideline in the matter of the statutory time limit in which the probate court must submit a certified copy of the report to the director of revenue and documents that must accompany the report as attachments under section 145.180, RSMo (1969).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) A certified copy of the report of appraiser and estate tax appraisal (if applicable) must be forwarded to the director of revenue within five (5) days after the amount of the tax has been affixed by the court.

(2) The following documents shall accompany the report of appraiser:

(A) A copy or reproduction of the will in all cases where the decedent died testate and a copy of the trust agreement (if applicable);

(B) Form 706, United States Treasury Department, Internal Revenue Service, estate tax return or any form(s) adopted in place of this form;

(C) All other papers used by the appraiser to arrive at the tax;

(D) Estate tax appraisal; and

(E) A copy of the inventory required by section 473.233, RSMo (1986).

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-180 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.110 Valuation of Life Estates and Remainder—Methods of Computation—Mortality Table

PURPOSE: This rule is intended as a general guideline as to those matters considered by the director of revenue in determining the value of a life estate and remainders and mortality table used by the insurance department for the purpose of computing the tax on the basis of five percent, under section 145.200, RSMo (1969).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) If a will creates a life estate in A with remainder to B, the life interest is valued by multiplying the amount held in trust by five percent (5%), to compute the presumed net

annual income from the trust, and then multiplying by the factor applicable to the age of the life tenant from the mortality table of values used by the director as required by section 145.220, RSMo (1969). The value of the remainder interest is then determined by subtracting the value of the life interest from the corpus.

(A) Example. Suppose the will gave T as trustee for John Doe one-third (1/3) of the residuary estate for life, remainder to Mary Doe, his daughter. We need to know the age of John Doe at the date of death of the testator (use age at nearest birthday). If he is forty-nine (49), the computation is as follows:

1/3 of residuary	\$ 14,694
Times 5%	<u>.05</u>
	\$ 734.70
Times factor of age 49	<u>11.563</u>
	220410
	440820
	367350
	<u>73470</u>
Present value of life estate	\$8,495.33610

The remainder interest of Mary Doe is then computed by subtracting the life estate from the corpus:

Corpus of trust	\$14,694.00
Present value of life estate	<u>\$ 8,495.34</u>
Value of remainder interest	\$ 6,198.66

The valuation of the remainder interest is not affected by any wording that may be added in the will to make the interest a contingent one. If more than one (1) remainderman is involved, then under section 145.240, RSMo (1969), the contingency which will result in the lowest tax should be selected by the appraiser as his/her basis of computation.

(2) Testator bequeaths a life estate in the sum of \$185,400 to his spouse A, age 70, for her life, and upon her death to B, a daughter, age 45, for her life, and upon her death to a grandson C, to be his absolutely. Computations are as follows:

A	
Value of corpus	\$185,400.00
Times rate	<u>.05</u>
Annual income	\$ 9,270.00
Times age factor at 70	5.983
Present value of life estate of A, spouse	<u>\$ 55,462.41</u>

B	
Value of corpus	\$185,400.00
Times rate	<u>.05</u>
Annual income	\$ 9,270.00
Times factor for age 45, less factor of age 70	
(12.456 - 5.983 = 6.473)	<u>6.473</u>
Present value of life estate of B, daughter	\$ 60,004.71
C	
Corpus of trust	\$185,400.00
Less life estate of A	\$ 55,462.41
Less life estate of B	<u>\$ 60,004.71</u>
Remainder interest to C	\$ 69,932.88

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Inheritance tax rule 61-200 was last filed Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.120 Notice of Intention to Transfer Assets

PURPOSE: This rule shall serve as a guideline relating to the transfer of certain estate property and the preparation of forms required under section 145.210, RSMo (Supp. 1975).

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Conditional Consents to Transfer Assets. A conditional consent to transfer or deliver assets issued exclusively to transfer contents of safety deposit boxes and for no other purpose. The ten (10)-day notice required to be given the director of revenue and attorney general, by section 145.210, RSMo (Supp. 1975), (Senate Bill No. 410, 77th General Assembly, Second Regular Session, effective date, 8-13-74), is given by submitting a "conditional consent to transfer or deliver assets", in duplicate, to the Director of Revenue, P.O. Box 27, Jefferson City, MO 65102. The form must be complete and accurate when mailed to the director. If all information requested on the form is not given, consent will be refused. Complete instructions are furnished on the reverse side of the form. The consent of the director and attorney general is conditional. The condition is that within sixty (60) days after issuance of the waiver, a complete inventory must be furnished the director. Attached to and made a part of this inventory must be a certificate signed by an authorized representative of the bank, trust company or safety deposit box company and by the person(s) who actually received the contents of

the safe deposit box. The inventory, certificate and receipt are not to be made or sent until after the conditional consent to transfer the contents is given by the director. The form of inventory, certificate and receipt shown on the reverse side of the form is not to be used; it is only a sample or guide to be used in preparing the certificate and receipt. If the reverse side of the form is used in place of a typewritten or printed certificate and receipt attached to and made a part of the inventory, the director's consent will be withheld and the forms returned to the sender.

(2) All Other Assets to be Transferred. A consent to transfer or deliver assets is to be used for the transfer and delivery of all assets—except the contents of safety deposit boxes, real estate and motor vehicles. All blanks on the form must be accurately filled in and all information requested must be given or the consent will be withheld and the form returned unsigned. Information must be complete showing the name(s) in which title is held, whether as tenants in common, decedent's name alone, trust corpus assets or payable on death assets, describing how title is held, date the account(s) was created, number assigned to document, when applicable, value at date of death and date of decedent's death. There must be a separate request for each company issuing stocks, bonds, etc., with the exception of a brokerage firm as holder of assets, then transfer of all holdings may be listed on one (1) form. The director may refuse at any time to give a consent to transfer any taxable assets unless the probate court either assesses the inheritance tax or issues a no tax order.

(3) Consent to transfer and deliver assets will be issued in the following cases:

- (A) When the assets to be transferred have been inventoried as required by section 473.233, RSMo (1969);
- (B) When the probate judge is aware of the existence of assets and issues a no tax order;
- (C) When the assets were known and taken into account and the inheritance tax assessed;
- (D) When the exemptions of the persons to whom the assets are to be transferred are greater than the assets sought to be transferred;
- (E) When proceeds of a life insurance policy (not an annuity or supplementary policy) are payable to a named beneficiary;
- (F) When the assets are transferred to the executor or to the administrator; or
- (G) When the tax has been paid and the assets are listed on the report of appraiser.

(4) Consent to transfer and deliver assets will be withheld in the following cases:

- (A) When the assets are not listed on the report of appraiser;
- (B) When the assets to be transferred are more than the exemptions allowed to the beneficiary;
- (C) When it appears evident that assets to be transferred have not been made known to the probate court; or
- (D) When all information required on the consent form is not furnished.

*AUTHORITY: sections 136.030 and 136.120, RSMo 1969. * Inheritance tax rule 61-210 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.130 Exercise of Power of Appointment—Unlimited Power of Encroachment

PURPOSE: This rule shall serve as a guideline as to those matters considered by the director of revenue in determining the taxable interest derived from any disposition of property upon exercising a power of appointment or an unlimited power to encroach upon the corpus of a testamentary trust.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) A bequest to the life tenant should be taxed at the full value of the principal of the trust estate, when the trustee has unlimited power to invade the corpus of a testamentary trust for the benefit of the life tenant. When a beneficiary is given the power to encroach upon the principal of a trust for a specific amount annually, upon written request, tax shall be computed at the full value so allocated. When testator bequeaths a life estate and therein granting a power of appointing to the life tenant, the full value of the principal of the testamentary trust is taxable to the life tenant.

*AUTHORITY: sections 136.030 and 136.120, RSMo 1969. * Inheritance tax rule 61-230 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.140 Refund

PURPOSE: This rule is intended as a guideline in the determination of the requirements of satisfactory proof of overpayment by an order of the probate court, and presentation of the court order to the director of revenue within two years from the date order was certified by the probate court.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) Application for refund of tax erroneously paid shall be requested by letter and accompanied by an order of the probate court (sections 145.240 and 145.250, RSMo (1969)). All applications and order granting the refund of any tax shall be made within two (2) years from the date of the accrual of the right to the refund.

*AUTHORITY: sections 136.030 and 136.120, RSMo 1986. * Inheritance tax rule 61-250 was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.150 Mortality Table

PURPOSE: The mortality table used by the director of revenue under section 145.220, RSMo (1986) is assigned a rule number in order to comply with the uniform procedures adopted by the secretary of state under section 536.023, RSMo (1986). It is used in determining the value of life estates.

NOTE: This regulation is applicable to decedents dying on or before December 31, 1980.

(1) The mortality table on the following page has been promulgated by the director of revenue under section 145.220, RSMo (1969). It is the same mortality table that is used by the insurance department and it is to be used in determining the value of life estates and computing the tax under the Transfer and Inheritance Tax Law, on the basis of five percent (5%).

Mortality table used by the insurance department for the purpose of determining the value of life estates and computing the tax under the transfer and inheritance tax law, on a basis of five percent (5%).

Present		Present	
Age	Value	Age	Value
10	16.556	56	9.816
11	16.502	57	9.550
12	16.445	58	9.282
13	16.386	59	9.010
14	16.324	60	8.735
15	16.259		
16	16.192	61	8.459
17	16.121	62	8.182
18	16.048	63	7.903
19	15.971	64	7.625
		65	7.347
20	15.891	66	7.070
21	15.808	67	6.795
22	15.722	68	6.521
23	15.632	69	6.251
24	15.539	70	5.983
25	15.442		
26	15.341	71	5.718
27	15.236	72	5.457
28	15.127	73	5.200
29	15.014	74	4.947
		75	4.699
30	14.896	76	4.455
31	14.774	77	4.216
32	14.647	78	3.982
33	14.515	79	3.754
34	14.378	80	3.531
35	14.235		
36	14.087	81	3.313
37	13.933	82	3.099
38	13.773	83	2.889
39	13.606	84	2.681
		85	2.474
40	13.433	86	2.268
41	13.252	87	2.063
42	13.064	88	1.858
43	12.868	89	1.655
44	12.666	90	1.456
45	12.456		
46	12.241	91	1.261
47	12.020	92	1.072
48	11.794	93	0.892
49	11.563	94	0.726
		95	0.576
50	11.326	96	0.456
51	11.085	97	0.363
52	10.840	98	0.238
53	10.590		
54	10.336		
55	10.077		

AUTHORITY: sections 136.030 and 136.120, RSMo 1969. Mortality table was last filed on Dec. 31, 1975, effective Jan. 10, 1976.*

**Original authority: 136.030, RSMo 1945, amended 1947, 1949, 1965 and 136.120, RSMo 1945.*

12 CSR 10-8.160 Estate Tax Interest Rate

PURPOSE: This rule establishes the manner of computing interest due on estate tax deficiencies.

(1) Interest shall be imposed on all estate tax deficiencies at the rate established pursuant to section 32.065, RSMo, except that—

(A) Where part of a deficiency results from a federal extension of time to pay, interest shall be imposed on that part of the deficiency at the adjusted rate established by Internal Revenue Code section 6621, which rate is subject to periodic change, as it is incorporated into Internal Revenue Code section 6601;

(B) Where all of the deficiency on the federal return resulting from extension of time to pay is eligible for the four percent (4%) interest rate set out in Internal Revenue Code section 6601, (estate consisting largely of interest in closely held corporation), the interest on all of the deficiency on the Missouri return resulting from the federal extension of time to pay shall be computed at the four percent (4%) rate; and

(C) Where part of the deficiency on the federal return resulting from extension of time to pay is eligible for the four percent (4%) interest rate set out in Internal Revenue Code section 6601 (estate consisting largely of interest in closely held corporation), and part must be computed pursuant to the adjusted rate established by Internal Revenue Code section 6621, those rates shall be applied to the deficiency on the Missouri return resulting from the federal extension of time to pay in the same ratio that the portion of the federal deficiency from Missouri sources which is subject to each rate bears to the total federal deficiency from Missouri sources resulting from extension of time to pay.

(2) The rates applicable to the federal extension shall only be applied for the period of the federal extension. The rate established pursuant to section 32.065, RSMo shall be used for all other periods.

(3) To claim the benefit of subsections (1)(A)–(C), the taxpayer must provide a copy of the federal billing notice and a statement for each year claimed, setting forth—

(A) The percentage of the federal deficiency attributable to the extension of time to pay;

(B) The percentage of the federal deficiency subject to each rate; and

(C) The percentage of subsections (3)(A) and (B) attributable to Missouri sources.

(4) Partial payments made on an estate tax deficiency shall be applied first to interest, then to penalty and then to tax. Payment shall be applied among the portions of the deficiency subject to the rates established by section 32.065, RSMo, Internal Revenue Code section 6601 and Internal Revenue Code section 6621 in such proportion as the principal portion of the federal deficiency from Missouri sources subject to each rate shall bear to the total principal amount of the federal deficiency from Missouri sources.

(5) When a taxpayer waives restrictions on collection of a deficiency pursuant to Internal Revenue Code section 6213(d) as it is incorporated into Internal Revenue Code section 6601(c), the department shall make notice and demand for payment within thirty (30) days after filing a copy of the waiver with the estate tax section of the Department of Revenue or interest shall not be imposed on the deficiency for the period beginning immediately after thirty (30) days and ending with the date of notice and demand.

(6) Where part of a deficiency is not subject to an extension, that amount shall be due on the original due date.

(7) The rates established by subsections (1)(A)–(C) shall be the rate for interest accrued after September 27, 1985.

AUTHORITY: sections 32.065, 145.551 and 145.961, RSMo 1986. Original rule filed Oct. 15, 1985, effective Jan. 26, 1986. Amended: Filed March 31, 1988, effective Sept. 29, 1988.*

**Original authority: 32.065 RSMo 1982, amended 1986, 1995; 145.551, RSMo 1980, amended 1985, 1986, 1987; and 145.961, RSMo 1980.*

12 CSR 10-8.170 Extension of Time to Pay Missouri Estate Tax

PURPOSE: This rule establishes the manner in which an extension of time to pay Missouri estate taxes is allowed pursuant to section 145.551.3., RSMo (1986) and for the acceleration of the unpaid tax for failure to make a required interest payment.

(1) When an estate has been granted an extension of time for paying its federal estate tax pursuant to 26 U.S.C. 6166, the filing of a copy of the acceptance of the extension by the Internal Revenue Service with the director of revenue shall automatically extend the time for the payment of the Missouri estate tax required by sections 145.011–145.995,

RSMo. The extension of time to pay Missouri estate tax pursuant to section 145.551.3., RSMo (1986) is equal to the period of time granted by the Internal Revenue Service pursuant to 25 U.S.C. 6166. For decedents dying prior to August 13, 1986 no extension of time to pay shall exceed four (4) years. The period of extension shall be measured from the date fixed for filing the Missouri estate tax return without regard to any extension of time for filing the return.

(2) If the estate has not received acceptance of its election to pay its federal estate tax pursuant to 26 U.S.C. 6166 by the Internal Revenue Service at the time of filing the Missouri estate tax return, it shall file, with the director of revenue, a copy of the application for extension it filed with the Internal Revenue Service. Upon receipt of the application, the estate will be granted a conditional extension of time to pay its Missouri estate tax pursuant to section 145.551.3., RSMo (1986) for a period of one (1) year. The one (1)-year period shall be measured from the date fixed for filing the Missouri estate tax return without regard to any extension of time for filing the return. The estate must provide proof of acceptance by the Internal Revenue Service of its application for extension of time to pay pursuant to 26 U.S.C. 6166 within the one (1)-year period.

(A) If the estate has not provided a copy of the acceptance by the Internal Revenue Service of its election under 26 U.S.C. 6166 within the one (1)-year extension granted in section (2) of this rule, the conditional extension of time to pay Missouri estate tax is void and the unpaid tax is delinquent as of the date originally fixed for filing the Missouri estate tax return and subject to additions for failure to pay pursuant to section 143.751.2., RSMo (1986). Interest shall be calculated at the statutory rate pursuant to section 32.065, RSMo (1986).

(B) If the estate provides a copy of the acceptance by the Internal Revenue Service of its election under 26 U.S.C. 6166 within the one (1)-year period the extension of time to pay Missouri estate tax shall be as provided in section (1) of this rule.

(3) Where the estate has been granted a valid extension of time to pay pursuant to section 145.551.3., RSMo (1986), interest on the unpaid tax shall accrue and become due annually on the unpaid tax at the same rate as provided in 26 U.S.C. 6601 (see 12 CSR 10-8.160).

(A) The first annual interest payment shall be due one (1) year from the date originally fixed for filing the Missouri estate tax return

without regard to any extension of time for filing the return. The remaining interest payments shall be due on the same date annually.

(B) Failure to timely pay an annual interest payment will result in an acceleration of the unpaid tax. Full payment of this accelerated tax is due upon notice and demand from the director of revenue or his/her delegate. Failure to pay the unpaid tax and interest upon demand will result in a delinquency and subject the estate to additions for failure to pay pursuant to section 143.751.2., RSMo (1986). After issuance of the ten (10)-day demand notice, interest shall be calculated at the statutory rate as provided in section 32.065, RSMo (1986).

AUTHORITY: section 145.961, RSMo 1986. Original rule filed Feb. 25, 1986, effective June 28, 1986. Amended: Filed March 31, 1988, effective Sept. 29, 1988.*

**Original authority: 145.961, RSMo 1980.*

12 CSR 10-8.180 Claims for Refund of Missouri Estate Taxes When Paid in Installments

PURPOSE: To inform the public of the procedures to be followed by an estate, which elected to pay the federal estate tax in installments pursuant to I.R.C. section 6166 and to claim refund of any overpaid Missouri estate taxes.

(1) A personal representative that elects to deduct interest paid on the unpaid portion of estate tax, which is deferred pursuant to an I.R.C. section 6166 election and section 145.551.3., RSMo on its federal estate tax return, shall file a supplemental Missouri estate tax return at the same time a supplemental United States estate tax return is filed.

(2) The supplemental Missouri estate tax return shall have the words "Supplemental Information" placed on top. The supplemental Missouri estate tax return shall have attached to it a complete copy of the supplemental United States estate tax return.

(3) The supplemental Missouri estate tax return is not and will not be considered a claim for refund.

(4) The personal representative, within ninety (90) days of the final determination of the federal state death tax credit, shall file an amended Missouri estate tax return.

(5) Claims for refund of Missouri estate taxes are not allowed until the federal state death tax credit is finally determined.

(6) If, after the federal state death tax credit is finally determined, the amount of Missouri estate tax paid exceeds the amount actually due, the personal representative shall file a claim for refund of the overpaid Missouri estate tax. The claim for refund must be filed within one (1) year of the filing of the amended Missouri estate tax return.

AUTHORITY: section 145.961, RSMo 1986. Original rule filed May 12, 1987, effective Aug. 27, 1987.*

**Original authority: 145.961, RSMo 1980.*

12 CSR 10-8.190 Missouri Estate Tax Base

PURPOSE: The purpose of this rule is to inform the public that the Missouri estate tax is equal to the amount of the state death tax credit allowed or allowable by IRC (Internal Revenue Code) Section 2011 attributable to property having a Missouri tax situs. This regulation is applicable to decedents dying on or after January 1, 1981.

(1) The Missouri estate tax is equal to the amount of state death tax credit as determined by IRC Section 2011 subject to apportionment as provided in section 145.041, RSMo (1986) for estates having property with a non-Missouri tax situs.

(2) The Missouri estate tax is not reduced or eliminated by the following credits allowed by the IRC for purposes of determining the federal estate tax:

(A) Credit for federal gift taxes on pre-1977 gifts (IRC Section 2012);

(B) Credit for foreign death taxes (IRC Section 2014);

(C) Credit for tax on prior transfers (IRC Section 2013).

(3) Failure to claim the state death tax credit for federal estate tax purposes does not eliminate or excuse the payment of the Missouri estate tax.

AUTHORITY: sections 145.011, 145.041 and 145.961, RSMo 1986. Original rule filed Aug. 23, 1988, effective Dec. 29, 1988.*

**Original authority: 145.011, RSMo 1980; 145.041, RSMo 1980; and 145.961, RSMo 1980.*