

STATEMENTS OF POLICY

Title 61—REVENUE

DEPARTMENT OF REVENUE

[61 PA. CODE CH. 94]

Taxation of Trusts

The Department of Revenue (Department) has adopted a statement of policy under § 3.2 (relating to statements of policy). The statement of policy in § 94.3 (relating to taxation of trusts terminated under 20 Pa.C.S. § 7710.1) is new and takes effect upon publication in the *Pennsylvania Bulletin*.

This statement of policy is promulgated by the Department to implement a consent requirement for termination of noncharitable irrevocable trusts made without court approval or notice to the Department.

Specific questions regarding this statement of policy may be directed to the Department of Revenue, Office of Chief Counsel, P. O. Box 281061, Harrisburg, PA 17128-1061.

DANIEL MEUSER,
Secretary

(*Editor's Note:* Title 61 of the *Pennsylvania Code* is amended by adding a statement of policy in § 94.3 to read as set forth in Annex A.)

Fiscal Note: 15-455. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 61. REVENUE

PART I. DEPARTMENT OF REVENUE

Subpart B. GENERAL FUND REVENUES

ARTICLE IV. COUNTY COLLECTIONS

CHAPTER 94. INHERITANCE TAX

PRONOUNCEMENTS—STATEMENTS OF POLICY

§ 94.3. Taxation of trusts terminated under 20 Pa.C.S. § 7710.1.

(a) Effective for Resident and Non-Resident Pennsylvania Inheritance Tax Returns filed on or after July 1, 2012,

wherein the person responsible for filing the return has not made an election to prepay tax under section 2113(a) of the Inheritance and Estate Tax Act (act) (72 P.S. § 9113(a)) concerning trust assets reported on the return as part of a qualified spousal trust under section 2113 of the act, the Department will reserve the right to assess Pennsylvania Inheritance Tax at the highest applicable rate in effect at the time the Department issues its initial Notice of Inheritance Tax Appraisal, Allowance or Disallowance of Deductions and Assessment of Tax, unless the person responsible for filing the return requests a Future Interest Compromise from the Department in conjunction with the filing and in the manner prescribed by the Department.

(b) If a Future Interest Compromise is not requested in accordance with subsection (a), the person responsible for filing the return shall acknowledge in writing, in the form and manner provided by the Department, the person's assumption of liability for inheritance tax consequences that result from the termination of a trust under 20 Pa.C.S. § 7710.1 (relating to nonjudicial settlement agreements—UTC 111) that occurs after the return has been filed. This assumption of liability applies to a termination made without court approval or notice to the Department. This liability does not apply to a termination made under a specified termination date as contained within the trust instrument provided to the Department.

(c) If a trust has been terminated under 20 Pa.C.S. § 7710.1, without request for a Future Interest Compromise in accordance with subsection (a), the assets of the trust will be valued for Pennsylvania Inheritance Tax purposes as of the date of termination and tax will be due and owing as of the date of termination. Interest will accrue on an inheritance tax liability as of the termination date and in accordance with section 806 of The Fiscal Code (72 P.S. § 806).

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