

LOUISIANA INHERITANCE TAX RETURNS AFTER JUNE 30, 2004

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The filing of an inheritance tax return or any other related succession documentation with the secretary of the Department of Revenue shall not be required if a judgment of possession is rendered or if the succession proceeding is opened no later than the last day of the ninth month following the death of the individual.

If the succession proceeding is not opened or a judgment of possession is not rendered within the time period stipulated above the estate will be taxed at 20% of the inheritance tax rate in effect on June 30, 1998, When the succession proceeding is opened.

In the event you only open the succession proceeding within the time period you will ultimately have to obtain a judgment of possession placing the heir(s) or legatee(s) into possession of the deceased person's estate.

As concerns the revocable inter vivos trust the filing of an inheritance tax return or any other related succession documentation with the secretary of the Department of Revenue shall not be required if a trust declaration is signed and filed by the surviving settlor or grantor, trustee, or beneficiary with the secretary of the Department of Revenue no later than the last day of the ninth month following the death of the decedent.

The trust declaration to be filled with the secretary of the Department of Revenue must include the following:

- The name, address and social security number of the decedent;
- The name and taxpayer identification number of the trust, if any;
- The name and address of the declarant and his or her relationship to the trust;
- The date of death of the decedent; and
- A statement by the declarant that the succession has not been judicially opened.

If the trust declaration is not filed within the stipulated time period, you will be taxed at 20% of the inheritance tax rate in effect on June 30, 2004 when the assets from the trust are distributed.

If the entire estate is being distributed pursuant to such trust agreement the revocable inter vivos trust may be filed in lieu of a petition for possession.

If some of the assets of the decedent are in the trust and other assets are outside the trust you will have to open succession proceedings to place those assets into the trust.

In summary, by either opening a succession or obtaining a judgment of possession for probate assets or filing the trust declaration for the revocable inter vivos trust by the last day of the ninth month following the death of the individual you can avoid the filing of an inheritance tax return as well as being taxed at 20% of the inheritance tax rate in effect on June 30, 1998.

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