

# SECTION K

## Inheritance Tax

### BASIC PROVISIONS AND TAX BASE

The inheritance tax in Nebraska is administered by the county court of the county in which the decedent resided or in which real or personal property is located. The tax is levied as a variable percentage of the clear market value of the property, including proceeds of insurance upon the life of the decedent, transferred by will or by the intestate laws from any person who, at the time of death, was a Nebraska resident or if a nonresident, possessed nonexempt property located within the State of Nebraska. The variable rate is determined by the identity of the beneficiary. Interests passing to the surviving spouse are not subject to inheritance tax.

Effective September 1, 2007 (under LB364), the inheritance tax is required to be apportioned among the counties in the same ratio that the gross property (including both taxable and nontaxable property), in each county bears to the gross value of all property reportable for inheritance tax purposes. Also, operative for decedents dying on or after January 1, 2008 (under LB502), the brackets and tax rates for all classes of inheritance tax have been changed as reflected in the exemptions and preferential tax rates below.

**All inheritance tax is credited to the county general fund or to any other fund of the county selected by the county board.**

**Statutory Reference  
and Description**

**Estimated Tax  
Expenditure Cost  
NA = Not Available**

### EXEMPTIONS

#### **Sections 77-2004 and 30-2322**

The homestead allowance is exempt. A surviving spouse of a decedent who was domiciled in Nebraska is entitled to a homestead allowance of \$7,500. If there is no surviving spouse, each minor or dependent child of the decedent is entitled to a homestead allowance of \$7,500 divided by the number of minor and dependent children of the decedent.

NA

#### **Sections 77-2004 and 30-2323**

Exempt property is not subject to the tax. The surviving spouse of a decedent who was domiciled in the state is entitled from the estate a value, not exceeding \$5,000 in excess of any security interest, of household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, children of the decedent are

NA

entitled jointly to the same value. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than \$5,000, or if there is less than \$5,000 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the \$5,000 value.

**Sections 77-2004, 30-2324, and 30-2325**

The family maintenance allowance is exempt. If the decedent was domiciled in this state, the surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent, are entitled to a reasonable allowance in money up to \$9,000 total without a court order, of the estate for their maintenance during the period of administration.

NA

**Section 77-2004**

The first \$40,000 of the clear market value of property transferred to an immediate relative of the decedent is exempt.

NA

Interests passing to the surviving spouse are not subject to tax.

NA

**Section 77-2005**

The first \$15,000 of the clear market value of property transferred to remote relatives of the decedent is exempt.

NA

**Section 77-2006**

The first \$10,000 of the clear market value of the beneficial interest in the estate received by someone other than an immediate or remote relative is exempt.

NA

**Section 77-2007**

Payments received by an estate under an employee benefit plan are exempt to the extent that the benefit is life insurance otherwise excluded from the tax or the benefit is not subject to the federal estate tax.

NA

**Section 77-2007.03**

Property transferred to either (1) the United States or any of its departments, instrumentalities, or agencies, or (2) Nebraska or any of its governmental subdivisions, departments, agencies, or instrumentalities, any municipal corporation or body politic created by or under the laws of Nebraska, or any agency, institution, foundation, or fund administered or operated by any of the same is exempt.

NA  
(State taxation prohibited)

**Section 77-2007.04**

All bequests, legacies, devises, or gifts to or for the use of any corporation, organization, association, society, institution, or foundation organized and operating exclusively for religious, charitable, public, scientific, or educational purposes, no part of which is owned or used for financial gain or profit, either by the owner or user, or inures to the benefit of any private stockholder or

NA

individual, or to a trustee or trustees exclusively for such religious, charitable, or educational purposes, is exempt if certain enumerated conditions are met.

## DEDUCTIONS

### Sections 77-2018.04(1) through (5)

The following deductions from the value of the property subject to the tax are allowed to the extent paid from, chargeable to, paid, payable, or expected to become payable with respect to property subject to the tax:

- |  |    |
|--|----|
| 1. The cost of the funeral of the decedent, including cost for interment and grave site marker;  | NA |
| 2. All expenses of administration due to the death of the decedent, including but not limited to, attorney's fees, court costs, and expenses concerning property not subject to probate; | NA |
| 3. All expenses of the last illness of the decedent which were incurred within six months of the death of the decedent;  | NA |
| 4. All other debts upon which the decedent was liable for payment at the date of his or her death and not otherwise listed;  | NA |
| 5. Any federal estate tax paid, after deduction of all applicable credits which is attributable to property subject to Nebraska inheritance tax.   | NA |

## CREDITS

### Section 77-2018.06

Where a decedent has received property from another person who died within five years prior to the death of the decedent, upon which Nebraska inheritance tax was paid, such tax paid is allowed as a credit against the amount of inheritance tax assessed against the recipients of property from the estate of the decedent.

NA

## PREFERENTIAL TAX RATES

### Sections 77-2004, 77-2005, and 77-2006

Property transferred to immediate relatives, remote relatives, and others are taxed at the rates noted below:

<b>Classification</b>	<b>Amount of Property</b>	<b>Tax Rate</b>	
Immediate Relatives	\$40,000.01 & over	1%	NA
Remote Relatives	\$0-15,000.00	0%	NA
	\$15,000.01 & over	13%	
Other Transfers	\$0-10,000.00	0%	NA
	\$10,000.01 & over	18%	

## RECOMMENDATIONS

The Nebraska Department of Revenue has no recommendations. The State Court Administrator may or may not have recommendations.