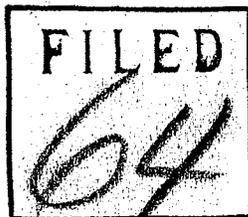


TAXATION: No Missouri Inheritance tax due on insurance
INHERITANCE TAX: proceeds held in manner described.



August 9, 1954

M. E. Morris, Director
Department of Revenue
Jefferson City, Missouri

Attention: C. L. Gillilan
Inheritance Tax Division

Dear Sir:

Reference is made to your request for an official opinion of this department, which may be summarized in the following language:

Upon the death of an assured, a life insurance company, under an agreement with the assured, holds the proceeds in trust, paying the primary beneficiary interest thereon. Upon the death of the primary beneficiary or at some future stated time, the corpus of the trust estate is payable to a secondary beneficiary. The primary beneficiary has no power to withdraw any portion of the corpus of the trust estate nor to alter or modify the terms of the trust agreement with respect to the rights of the secondary beneficiary.

It is clear to be seen that, in the circumstances outlined, the proceeds of the life insurance policy retain their identity and characteristics as such. The lack of authority or power on the part of the primary beneficiary to in any manner control the subsequent disposition of the corpus of the trust estate clearly discloses that such identity and characteristics are not lost.

We therefore think that your problem is one of comparatively simple solution. We direct your attention to the provisions of

M. E. Morris, Director

Section 145.020 RSMo 1949, imposing the Missouri inheritance tax upon various types of transfers, but containing the following significant exemption:

* * * * *

"3. Nothing herein contained shall be construed as imposing a tax upon:

* * * * *

"(3) The proceeds of life insurance policies payable because of the death of the insured in trust or otherwise, to the beneficiaries other than the insured's estate."

In view of our determination that the corpus of the trust estate retains its characteristic as proceeds of a life insurance policy payable to named beneficiaries, we think the exemption contained in the section quoted is applicable.

CONCLUSION

In the premises we are of the opinion that no Missouri inheritance tax is due upon the payment to a secondary beneficiary of the proceeds of a life insurance policy payable upon the death of the assured under a trust agreement with the life insurance company to named beneficiaries.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Will F. Berry, Jr.

Very truly yours,

JOHN M. DALTON
Attorney General

WFB:vtl;sm