Estate taxes and receipts for taxes paid

Number: AGO 74-86

Date: November 06, 1998

Subject:
Estate taxes and receipts for taxes paid

RE: TAXATION--ESTATE TAXES--RECEIPTS FOR TAXES PAID

To: J. Ed Straughn, Executive Director, Department of Revenue, Tallahassee

Prepared by: E. Wilson Crump, II, Assistant Attorney General

QUESTION:

Does s. 198.19, F. S., require the issuance by the Estate Tax Bureau of the Department of Revenue of a receipt for all moneys coming into the hands of the department pursuant to the administration of Ch. 198, F. S., or is the requirement of that section satisfied by the issuance of a receipt for the total amount of taxes paid upon the final settlement of the tax liability of an estate?

SUMMARY:

Section 198.19, F. S., requires the department only to issue receipts for estate taxes paid to the State of Florida pursuant to Ch. 198, F. S., upon full settlement of liability for taxes imposed by Ch. 198 and does not require the issuance of receipts for other moneys or interim estate tax payments coming into the hands of the Department of Revenue in connection with the administration of Ch. 198.

It is my opinion that the statute in question requires only that a receipt be issued for the total taxes paid upon final determination of the full liability of an estate.

In conjunction with your request, members of your department have brought to my attention two forms presently in use by the department. The first of these is Form DR-303 and is entitled "Money Receipt." It is my understanding that it is the present practice of the Department of Revenue to issue this form upon the receipt of any interim tax payments, payments for interest, for waivers or releases, and for certified copies -- in short, upon the payments of any sums coming into the department's hands pursuant to its administration of Ch. 198, F. S. On this form there is a legend, "this receipt does not qualify for Federal credit." The significance of this last statement lies in the credit allowed to an estate, against Federal Estate Taxes, pursuant to Internal Revenue Code, s. 2011(a), for payments actually made to the states as death taxes. Internal Revenue Service Regulation, s. 20.2011-1(c)(2), permits this credit to be allowed only upon a showing of actual payment of the tax and that no refund has been authorized and no claim for refund is pending. The other form to which my attention has been directed, Form DR-304, is entitled "Final Certificate," contains a schedule of all payments made to the State of

Florida for taxes imposed under Ch. 198, and is obviously designed to meet the requirements of the Internal Revenue Code and its supporting regulations. This form recites that, when issued, it is given in quadruplicate. It is my understanding that the Department of Revenue desires to eliminate the issuance of Form DR-303 for purposes of administrative economy and efficiency in the event that issuance of this form is not required by s. 198.19, F. S., or any other provision of Florida law.

I know of no provisions of Florida law other than s. 198.19, F.S., requiring the issuance of receipts for estate tax moneys coming into the hands of the department. The portion of s. 198.19 relevant to the issuance of receipts reads as follows:

"The department shall issue to the executor upon payment of the tax imposed by this chapter, receipts in triplicate, any of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts. . . ."

The language quoted above does not require the issuance of a receipt for payments for certified copies, waivers or releases, or payments of interest. In my opinion, the language of this statute indicates that it also does not require a receipt for interim payments of estate taxes, but only when the full liability for estate taxes to the State of Florida has been satisfied. The statute speaks in terms of the receipt in question being sufficient as evidence to be used before a court in auditing and settling the accounts of the executor. It would seem from this language that the statute contemplates issuance of such a receipt to be in conjunction with the final discharge of the executor. Accordingly, it would appear that there is no statutory mandate for the issuance of Form DR-303, as is presently used by the Department of Revenue, and the requirement of s. 198.19, F. S., is fully satisfied by the issuance of Form DR-304, according to the Department of Revenue's present administrative practices.