

#### **140.080 Exemptions of inheritable interests.**

- (1) The following exemptions chargeable against the lowest bracket or brackets of inheritable interests shall be free from any tax under the preceding provisions of this chapter:
  - (a) Surviving spouse, total inheritable interest. Effective as to decedents dying after August 1, 1985, notwithstanding anything in this chapter to the contrary, if the decedent's personal representative (or trustee or transferee, absent a personal representative) shall so elect, the spouse's inheritable interest shall include the entire value of any trust or life estate which is in a form that qualifies for the federal estate tax marital deductions under section 2056(b)(5) or 2056(b)(7) of the Internal Revenue Code of 1954, as amended through December 31, 1984, regardless of whether or not the federal estate tax marital deduction is elected by the decedent's personal representative. To be valid, the election referred to in the sentence immediately preceding must be made in the form prescribed by the Department of Revenue and must be filed on or before the due date of the tax return (plus extensions) or with the first tax return filed, whichever last occurs;
  - (b) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying prior to July 1, 1995, as follows:
    1. Infant child by blood or adoption, \$20,000;
    2. Child by blood who has been declared mentally disabled by a court of competent jurisdiction, \$20,000;
    3. Child adopted during infancy who has been declared mentally disabled by a court of competent jurisdiction, \$20,000; or a
    4. Child adopted during adulthood who was reared by the decedent during infancy and who has been declared mentally disabled by a court of competent jurisdiction, \$20,000;
    5. Parent, \$5,000;
    6. Child by blood, \$5,000;
    7. Stepchild, \$5,000;
    8. Child adopted during infancy, \$5,000;
    9. Child adopted during adulthood who was reared by the decedent during infancy, \$5,000; or a
    10. Grandchild who is the issue of a child by blood, the issue of a stepchild, the issue of a child adopted during infancy or the issue of a child adopted during adulthood who was reared by the decedent during infancy, \$5,000;
  - (c) Class A beneficiaries as defined in KRS 140.070, other than the surviving spouse, of estates of decedents dying on or after July 1, 1995, shall be as follows:

1. For decedents dying between July 1, 1995, and June 30, 1996, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-fourth (1/4) of each beneficiary's inheritable interest;
  2. For decedents dying between July 1, 1996, and June 30, 1997, the greater of the exemption established pursuant to paragraph (1)(b) of this section or one-half (1/2) of each beneficiary's inheritable interest;
  3. For decedents dying between July 1, 1997, and June 30, 1998, the greater of the exemption established pursuant to paragraph (1)(b) of this section or three-fourths (3/4) of each beneficiary's inheritable interest; and
  4. For each decedent dying after June 30, 1998, each beneficiary's total inheritable interest;
- (d) All persons of Class B, under KRS 140.070, \$1,000; and
- (e) All persons of Class C, under KRS 140.070, \$500.
- (2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

**Effective:** June 20, 2005

**History:** Amended 2005 Ky. Acts ch. 85, sec. 453, effective June 20, 2005. -- Amended 1995 (2d Extra. Sess.) Ky. Acts ch. 2, sec. 2, effective July 1, 1995. -- Amended 1990 Ky. Acts ch. 31, sec. 2, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 458, sec. 1, effective July 15, 1986. -- Amended 1985 (1st Extra. Sess.) Ky. Acts ch. 6, Pt. IV, sec. 12, effective August 1, 1985. -- Amended 1982 Ky. Acts ch. 141, sec. 61, effective July 1, 1982. -- Amended 1978 Ky. Acts ch. 138, sec. 2, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 77, Pt. II, sec. 1. -- Amended 1960 Ky. Acts ch. 117, sec. 1, effective June 16, 1960. -- Amended 1948 Ky. Acts ch. 96, sec. 3. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4281a-20.

**Note:** 1980 Ky. Acts ch. 396, sec. 66 would have amended this section effective July 1, 1982. However, 1980 Ky. Acts ch. 396 was repealed by 1982 Ky. Acts ch. 141, sec. 146, also effective July 1, 1982.

**Legislative Research Commission Note.** 1985 Acts, Ex. Sess., ch. 6, Part IV, Section 13, directed that the provisions of this section shall be effective for persons dying on or after 8/1/85.