

# Wills

In the absence of a will, the following scenarios may result:

| Pennsylvania Intestate Distribution  |  |
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| With a Surviving Spouse  | With No Surviving Spouse                           |
| Spouse as only Survivor<br>100% to spouse  | Children   |
| Spouse & Parents<br>First \$30,000, plus <i>half</i> of the balance of the estate to the spouse  | Parents  |
| Spouse & Children<br>First \$30,000, plus <i>half</i> of the balance of the estate to the spouse | Brothers, Sisters or Their Children                |
| Spouse & Step Children<br>50% to spouse  | Grandparents                                       |
|  | Uncles, Aunts and their Children and Grandchildren |
|  | The Commonwealth of Pennsylvania                   |

# Pennsylvania Inheritance Tax and Estate Tax

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## Types of Tax:

1. **Inheritance Tax** : An excise tax on the privilege of inheritance. This is not a tax on the property itself, but rather on the privilege of receiving property from a decedent.
2. **Estate Tax** : An addition to the inheritance tax equal to the difference between the federal credit for state death taxes less the Pennsylvania inheritance tax, if any.

## Property Subject to Tax:

1. Transfer by will or intestacy from a Pennsylvania resident.
2. Joint property is taxable in proportion to the number of joint tenants unless created within one year of death. Joint property between husband and wife is exempt.
3. Employment benefits (IRAs, pension plans, etc.) are taxable unless the decedent, prior to his death, did not have the right to possess, enjoy, assign or anticipate the payments.

## Exempt Property:

1. Tenancy by the entirety property in the estate of the first spouse to die.
2. Life insurance proceeds.
3. Real estate and tangible personal property located outside Pennsylvania owned by a Pennsylvania resident.

## Allowable Deductions:

1. **Administration Expenses:** Probating a will  
Obtaining Letters of Administration  
Publishing of Grant of Letters  
Obtaining appraisals of taxable property  
Miscellaneous expenses incurred in connection with administering the estate (bank charges, phone calls, etc.)  
Executor's commission  
Attorney's fees
2. **Funeral and Burial Expenses**
3. **Family exemption of \$2,000**, only if the amount is actually paid to the decedent's surviving spouse or children or parents who lived in the same household
4. **Taxes:** Real estate & personal property taxes on property subject to Pennsylvania Inheritance Tax  
Federal & state income taxes
5. **Decedent's liabilities** (expenses of last illness, household bills, mortgage debts, etc.)

# Federal Estate & Gift Tax

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- Credits:**
1. **Unified Credit : \$192,800**  
Applicable to gifts made in 1994 and estates of decedent dying in 1994 (equivalent to an exemption of \$600,000).
    - a. By-pass trust
    - b. Outright bequest to other than spouse
  2. **State Death Tax Credit**

**Marital Deduction, To Qualify for:**

1. Jointly-owned property
2. Outright bequest
3. Trust
4. Qualified terminable interest

**Life Insurance Proceeds:**

1. **Ownership:** Personal or Trust
2. **Beneficiary:** Spouse or Trust

**Retirement Plan Benefits: Full Inclusion**

**Deductions; Debts and Liabilities**

Similar to those allowed in computing Pennsylvania inheritance tax.

**Rates of Tax (See Attached Table)**

- Gift Tax:**
1. Annual exclusion — \$10,000 per donee
  2. Present interest versus future interest