

INHERITANCE TAX BULLETIN 2015-01
REALTY TRANSFER TAX BULLETIN 2015-01

ISSUED: February 25, 2015

Department of Revenue Policy Concerning Same-Sex Marriage for Inheritance and Realty
Transfer Tax Purposes

Purpose

This bulletin is issued to explain the effect of the May 20, 2014 *Whitewood v. Wolf* (992 F. Supp. 2d 410 (M.D. Pa. 2014)) decision (“*Whitewood*”) for PA Inheritance Tax and Realty Transfer Tax purposes.

Inheritance Tax

- (1) For an estate in which the decedent was party to a same-sex marriage, legally recognized within Pennsylvania as a result of the May 20th, 2014 *Whitewood* decision, the surviving same-sex spouse shall be treated as a “husband” or “wife” for purposes of establishing rights and responsibilities under the Inheritance and Estate Tax Act. Further, a natural or adopted child of any individual and that individual’s spouse shall be considered a lineal heir for purpose of establishing tax rates. A step-descendant shall also be recognized as a lineal heir for purposes of establishing tax rates.
- (2) Financial institutions shall treat joint accounts titled in the names of individuals in a same-sex marriage as accounts held by “husband” and “wife.”
- (3) Refund applications may be filed within the limitations period under 72 P.S. § 9181(d).

Realty Transfer Tax

- (1) For purposes of the exemptions under 72 P.S. § 8102-C.3(6), the phrase “husband and wife” shall be deemed to mean spouses. Individuals who are legally recognized as married within Pennsylvania as a result of the May 20th, 2014 *Whitewood* decision, shall be considered to be spouses for purposes of the exemptions. Further, an individual’s child (whether natural or adopted) is in a stepchild/stepparent relationship with the individual’s spouse for purpose of the exemptions.

- (2) Individuals who were not eligible for the exemption for transfers between a husband and wife or between a stepparent and stepchild prior to the *Whitewood* decision and who paid Realty Transfer Tax may request a refund of tax. Refund requests must be made by petition to the Board of Appeals within the time limitations period under 72 P.S. § 10003.1.

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