

SENATE BILL No. 1

January 24, 1991, Introduced by Senators N. SMITH,
ARTHURHULTZ, WELBORN, BARCIA and DI NELLO and referred
to the Committee on Finance.

A bill to amend the title and section 1 of Act No. 188 of
the Public Acts of 1899, entitled

"An act to provide for the taxation of inheritances, transfers of
property by will, transfer of property by the intestate laws of
this state or transfers of property by deed, grant, bargain, sale
or gift made in contemplation of the death of the grantor, vendor
or donor or intended to take effect in possession or enjoyment at
or after such death,"

section 1 as amended by Act No. 351 of the Public Acts of 1982,
being section 205.201 of the Michigan Compiled Laws; and to add
sections 22, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, and 41.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 1 of Act No. 188 of the
2 Public Acts of 1899, section 1 as amended by Act No. 351 of the
3 Public Acts of 1982, being section 205.201 of the Michigan
4 Compiled Laws, are amended and sections 22, 31, 32, 33, 34, 35,
5 36, 37, 38, 39, 40, and 41 are added to read as follows:

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TITLE

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An act to provide for the taxation of inheritances ~~—~~ AND transfers of property OF AN ESTATE OF A DECEDENT. ~~by will, transfer of property by the intestate laws of this state or transfers of property by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor or intended to take effect in possession or enjoyment at or after such death.~~

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Sec. 1. (1) ~~A~~ IF THE CLEAR MARKET VALUE OF AN ESTATE IS MORE THAN \$100,000.00, A tax shall be and is hereby imposed upon the transfer of any property, real or personal, of the value of \$100.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, not exempt by law in this state from taxation on real or personal property or not heretofore or hereafter existing within this state as incorporated foundations or not heretofore existing within this state as established nonprofit unincorporated foundations operated exclusively for benevolent, charitable, or educational purposes, in the following cases:

(a) When the transfer is by will or by the intestate laws of this state from any person dying seized or possessed of the property while a resident of this state.

(b) When the transfer is by will or intestate law of property within the state, and the decedent was a nonresident of the state at the time of his or her death.

(c) When the transfer is of property made by a resident or by nonresident, when the nonresident's property is within this

1 state, by deed, grant, bargain, sale, or gift made in
2 contemplation of the death of the grantor, vendor, or donor or
3 intended to take effect, in possession or enjoyment at or after
4 such death. Any transfer of a material part of this property in
5 the nature of a final disposition or distribution made by the
6 decedent within 2 years prior to his or her death, except in case
7 of a bona fide sale for a fair consideration in money or money's
8 worth, shall, unless shown to the contrary, be deemed to have
9 been made in contemplation of death within the meaning of this
10 section. The tax shall also be imposed when any such grantee,
11 vendee, or donee becomes beneficially entitled in possession or
12 expectancy to any property or the income of the property by any
13 such transfer, whether made before or after the passage of this
14 act.

15 (d) Whenever any person or persons, corporation or associa-
16 tion, whether voluntary or organized pursuant to law, shall exer-
17 cise a power of appointment derived from any disposition of prop-
18 erty made either before or after the passage of this act, the
19 appointment when made shall be deemed a transfer taxable under
20 this act in the same manner as though the property to which the
21 appointment relates belonged absolutely to the donee of the power
22 and had been bequeathed or devised to the donee by will; and
23 whenever any person or persons, corporation or association,
24 whether voluntary or organized pursuant to law, possessing such a
25 power of appointment so derived shall omit or fail to exercise
26 the power of appointment within the time provided, in whole or in
27 part, a transfer taxable under this act shall be deemed to take

1 place to the extent of the omission or failure, in the same
2 manner as though the person or persons, corporation or associa-
3 tion thereby becoming entitled to the possession or enjoyment of
4 the property to which the power related had succeeded thereto by
5 a will of the donee of the power failing to exercise the power,
6 taking effect at the time of the omission or failure.

7 (2) Notwithstanding subsection (1), a tax shall not be
8 imposed in respect of personal property, except tangible personal
9 property having an actual situs in this state, if 1 of the fol-
10 lowing apply:

11 (a) The transferor at the time of the transfer was a resi-
12 dent of a state or territory of the United States, or of any for-
13 eign country, which at the time of the transfer did not impose a
14 transfer tax or death tax of any character in respect of personal
15 property of residents of this state, except tangible personal
16 property having an actual situs in that state or territory or
17 foreign country.

18 (b) If the laws of the state, territory, or country of resi-
19 dence of the transferor at the time of the transfer contained a
20 reciprocal exemption provision under which nonresidents were
21 exempted from transfer taxes or death taxes of every character in
22 respect of personal property, except tangible personal property
23 having an actual situs therein, provided the state, territory, or
24 country of residence of such nonresidents allowed a similar
25 exemption to residents of the state, territory, or country of
26 residence of the transferor. For the purposes of this section
27 the District of Columbia and possessions of the United States

1 shall be considered territories of the United States. As used in
2 this subsection, "foreign country" and "country" mean both any
3 foreign country and any political subdivision of that country,
4 and either of them of which the transferor was domiciled at the
5 time of his or her death. For the purposes of this section,
6 "tangible personal property" shall be construed to exclude all
7 property commonly classed as intangible personal property, such
8 as deposits in banks, mortgages, debts, receivables, shares of
9 stock, bonds, notes, credits, evidences of an interest in proper-
10 ty, evidences of debt, and like incorporeal personal property.

11 (3) Notwithstanding subsection (1), a tax shall not be
12 imposed in respect of property passing to a trustee or trustees
13 of any trust agreement or trust deed heretofore or hereafter exe-
14 cuted by a resident or nonresident decedent by virtue of or under
15 the terms and provisions of any contract or contracts of insur-
16 ance heretofore or hereafter in force, insuring the life of such
17 decedent, and paid or payable at or after the death of the dece-
18 dent to the trustee or trustees for the benefit of a beneficiary
19 or beneficiaries having any present or future, vested, contin-
20 gent, or defeasible interest under such trust deed or trust
21 agreement.

22 (4) If an unincorporated foundation provided tax exempt
23 status by subsection (1) ceases to operate if its funds are
24 diverted from the lawful purposes of its organization, or if it
25 becomes unable to lawfully serve its purposes, the legislature
26 may by law provide for the winding up of its affairs and for the
27 conservation and disposition of its property, in such way as may

1 best promote and perpetuate the purposes for which the
2 unincorporated foundation was originally organized.

3 (5) Every transfer to any corporation, society, institution,
4 or person or persons, or association of persons for benevolent,
5 charitable, religious, or educational purposes, organized, exist-
6 ing, or operating under the laws of or within a state or terri-
7 tory of the United States, other than this state, or of the
8 District of Columbia, also shall be exempt from taxation under
9 this act, if at the date of the transfer which, excepting as to
10 gifts by living persons, shall be deemed to be the date of
11 decedent's death, the laws of the state or territory or of the
12 District of Columbia, under which such corporation, society,
13 institution, person or persons, or association of persons was
14 organized, existing, or operating did not impose a death tax of
15 any character in respect to property transferred to such a corpo-
16 ration, society, institution, person or persons, or association
17 of persons organized, existing, or operating under the laws of or
18 within this state, or if at the date of the transfer the laws of
19 the state or territory or of the District of Columbia contained a
20 reciprocal provision under which such a transfer to such a corpo-
21 ration, society, institution, person or persons, or association
22 of persons organized, existing, or operating under the laws of or
23 within another state or territory or of the District of Columbia
24 were exempted from death taxes of every character, if the other
25 state or territory or of the District of Columbia allowed a simi-
26 lar exemption to such a corporation, society, institution, person
27 or persons, or association of persons organized, existing, or

1 operating under the laws of another state or territory or of the
2 District of Columbia.

3 The exemption provided in this subsection shall be effective
4 with respect to transfers from decedents whose death occurred on
5 or after May 1, 1950. Any tax previously paid on transfers made
6 exempt by this subsection shall be refunded.

7 (6) Notwithstanding subsection (1), but subject to subsec-
8 tion (7), if the decedent dies after December 31, 1982 and if the
9 decedent makes or has made a transfer otherwise subject to tax
10 under this act to the surviving spouse of the decedent or to the
11 surviving spouse of the decedent and another person or persons,
12 and if this transfer qualifies for the marital deduction for pur-
13 poses of the federal estate tax in the estate of the decedent or
14 if this transfer would have qualified for the federal estate tax
15 marital deduction if the transfer had been included in the gross
16 estate of the decedent for purposes of the federal estate tax,
17 the transfer, using values as finally determined for purposes of
18 this act, shall be exempt from taxation under this act.

19 (7) The exemption provided by subsection (6) shall be
20 subject to the following:

21 (a) On the death of the first spouse to die, if the executor
22 properly elects to treat a transfer or specific portion of a
23 transfer as qualified terminable interest property, then on the
24 death of the surviving spouse, the transfer of qualified ter-
25 minable interest property, using values on the death of the sur-
26 viving spouse, shall be considered a transfer of the surviving
27 spouse subject to subsection (1). For purposes of determining

1 tax rates and exemptions applicable to such transfer, the
2 relationship of each successor on the death of the surviving
3 spouse shall be to the spouse to which the successor bears the
4 closer relationship, and other transfers from the surviving
5 spouse to such successors shall be taken into account first. If
6 the executor is not required by federal law to file a federal
7 estate tax return, the provisions in this subsection will apply
8 if the executor makes an irrevocable election to have them apply
9 on or before the date on which tax under this act, if any, is
10 due, and files such election on or before that date with the rev-
11 enue division of the department of treasury.

12 (b) If a transfer to the surviving spouse, or to the surviv-
13 ing spouse and other persons, is of an interest in a group of
14 assets not all of which are subject to tax under this act, for
15 purposes of the application of subsection (6), on the death of
16 the first spouse to die, the surviving spouse or the surviving
17 spouse and others persons, shall be considered to have received a
18 pro rata portion of the group of assets in the same proportion
19 that the value of that portion of the group of assets not subject
20 to tax under this act bears to the value of the entire group of
21 assets.

22 (8) For purposes of subsections (6) and (7):

23 (a) "Executor" means that term as defined by section 2203 of
24 the internal revenue code.

25 (b) "Qualified terminable interest property" means a trans-
26 fer or a specific portion of a transfer which the executor elects
27 to treat as qualified terminable interest property, as that term

1 is defined by section 2056(b)(7) of the internal revenue code,
2 for purposes of the federal estate tax or for purposes of subsec-
3 tion (7), to the extent subsections (6) and (7) apply to the
4 transfer or specific portion of the transfer.

5 (c) The inheritance tax imposed on the estate of the surviv-
6 ing spouse with respect to qualified terminable interest property
7 shall be paid from qualified terminable interest property unless
8 the surviving spouse's will specifically provides otherwise.

9 SEC. 22. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ACT,
10 THE FOLLOWING APPLIES:

11 (A) SECTIONS 1, 1A, 2, 2A, 2C, 2D, 3, 4, 5, 6, 7, 8, 9A, 11,
12 12, 13, 17, 18, AND 21 APPLY ONLY TO THE ESTATE OF A RESIDENT OR
13 NONRESIDENT DECEDENT DYING BEFORE JANUARY 1, 1993.

14 (B) SECTIONS 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, AND 41
15 APPLY ONLY TO THE ESTATE OF A RESIDENT OR NONRESIDENT DECEDENT
16 DYING AFTER DECEMBER 31, 1992.

17 (C) SECTIONS 3A, 9, 9C, 9E, 9F, 9G, 10, 14, 15, 16, 19, AND
18 20 APPLY TO ALL RESIDENT AND NONRESIDENT DECEDENTS.

19 SEC. 31. (1) A TAX IS IMPOSED UPON THE TRANSFER OF AN
20 ESTATE OR ANY PART OF AN ESTATE OF A RESIDENT OR NONRESIDENT
21 DECEDENT DYING AFTER DECEMBER 31, 1992, IF THE ESTATE IS SUBJECT
22 TO THE FEDERAL ESTATE TAX IMPOSED BY THE INTERNAL REVENUE CODE.
23 THE TAX IS EQUAL TO THE MAXIMUM TAX CREDIT FOR STATE DEATH TAXES
24 ALLOWABLE TO THE ESTATE OF THE DECEDENT AGAINST THE FEDERAL
25 ESTATE TAX IMPOSED FOR THE PORTION OF THE ESTATE LOCATED IN THIS
26 STATE. FOR PURPOSES OF THIS SECTION, "ESTATE" MEANS THE PROPERTY

1 INCLUDED IN THE GROSS ESTATE AS DEFINED BY THE INTERNAL REVENUE
2 CODE FOR FEDERAL ESTATE TAX PURPOSES.

3 (2) A TAX IS IMPOSED UPON A GENERATION-SKIPPING TRANSFER OF
4 AN ESTATE OR ANY PART OF AN ESTATE OF A RESIDENT OR NONRESIDENT
5 DECEDENT DYING AFTER DECEMBER 31, 1992, IF THE TRANSFER IS
6 SUBJECT TO THE TAX ON GENERATION-SKIPPING TRANSFERS IMPOSED BY
7 THE INTERNAL REVENUE CODE. THE TAX IS EQUAL TO THE MAXIMUM
8 AMOUNT OF CREDIT ALLOWED AGAINST THE FEDERAL GENERATION-SKIPPING
9 TAX FOR TAXES PAID TO A STATE WITH RESPECT TO ANY PROPERTY
10 INCLUDED IN THE GENERATION-SKIPPING TRANSFER.

11 (3) FOR EACH ESTATE SUBJECT TO TAX UNDER THIS SECTION, THE
12 PERSONAL REPRESENTATIVE OR ADMINISTRATOR OF THE ESTATE SHALL FILE
13 WITH THE PROBATE COURT A COPY OF THE FEDERAL ESTATE TAX RETURN.
14 THE PROBATE JUDGE SHALL THEN ISSUE AN ORDER OF DETERMINATION OF
15 INHERITANCE TAX.

16 SEC. 32. (1) THE TERMS "DEATH TAX" AND "DEATH TAXES", AS
17 USED IN SUBSECTIONS (2) TO (6), SHALL INCLUDE INHERITANCE, SUC-
18 CSSION, TRANSFER, AND ESTATE TAXES AND ANY TAXES LEVIED AGAINST
19 THE ESTATE OF A DECEDENT UPON THE OCCASION OF HIS OR HER DEATH.

20 (2) AT ANY TIME BEFORE THE EXPIRATION OF 18 MONTHS AFTER THE
21 QUALIFICATION IN ANY PROBATE COURT IN THIS STATE OF ANY PERSONAL
22 REPRESENTATIVE OF THE WILL OR ADMINISTRATOR OF THE ESTATE OF ANY
23 NONRESIDENT DECEDENT, THE PERSONAL REPRESENTATIVE OR ADMINISTRA-
24 TOR SHALL FILE WITH THE COURT PROOF THAT ALL DEATH TAXES,
25 TOGETHER WITH INTEREST OR PENALTIES ON THE TAXES, THAT ARE DUE TO
26 THE STATE OF DOMICILE OF THE DECEDENT, OR TO ANY POLITICAL
27 SUBDIVISION OF THAT STATE, HAVE BEEN PAID OR SECURED, OR THAT NO

1 TAXES, INTEREST, OR PENALTIES ARE DUE, AS THE CASE MAY BE, UNLESS
2 IT APPEARS THAT LETTERS TESTAMENTARY OR OF ADMINISTRATION HAVE
3 BEEN ISSUED ON THE ESTATE OF THE DECEDENT IN THE STATE OF HIS OR
4 HER DOMICILE. IN SUBSECTIONS (3) TO (6), THE STATE OF DOMICILE
5 SHALL BE CALLED THE DOMICILIARY STATE.

6 (3) THE PROOF REQUIRED BY SUBSECTION (2) MAY BE IN THE FORM
7 OF A CERTIFICATE ISSUED BY THE OFFICIAL OR BODY CHARGED WITH THE
8 ADMINISTRATION OF THE DEATH TAX LAWS OF THE DOMICILIARY STATE.
9 IF THE PROOF HAS NOT BEEN FILED WITHIN THE TIME LIMIT IN SUBSEC-
10 TION (2), AND IF WITHIN THAT TIME IT DOES NOT APPEAR THAT LETTERS
11 TESTAMENTARY OR OF ADMINISTRATION HAVE BEEN ISSUED IN THE DOMI-
12 CILIARY STATE, THE REGISTER OF PROBATE, UPON THE EXPIRATION OF
13 THAT TIME, SHALL IMMEDIATELY NOTIFY BY MAIL THE OFFICIAL OR BODY
14 OF THE DOMICILIARY STATE CHARGED WITH THE ADMINISTRATION OF THE
15 DEATH TAX LAWS CONCERNING THE ESTATE. THE NOTICE SHALL INCLUDE
16 THE NAME, DATE OF DEATH, AND LAST DOMICILE OF THE DECEDENT; THE
17 NAME AND ADDRESS OF EACH PERSONAL REPRESENTATIVE OR ADMINISTRA-
18 TOR; A SUMMARY OF THE VALUES OF THE REAL PROPERTY, TANGIBLE PER-
19 SONAL PROPERTY, AND INTANGIBLE PROPERTY, WHEREVER SITUATED,
20 BELONGING TO THE DECEDENT AT THE TIME OF HIS OR HER DEATH; AND
21 THE FACT THAT THE PERSONAL REPRESENTATIVE OR ADMINISTRATOR HAS
22 NOT FILED THE PROOF REQUIRED IN SUBSECTION (2). THE REGISTER
23 SHALL ATTACH TO THE NOTICE A PLAIN COPY OF THE WILL AND CODICILS
24 OF THE DECEDENT IF HE OR SHE DIED TESTATE, OR, IF HE OR SHE DIED
25 INTESATE, A LIST OF THE HEIRS AND NEXT OF KIN KNOWN TO THE
26 REGISTER. WITHIN 60 DAYS AFTER THE MAILING OF THE NOTICE, THE
27 OFFICIAL OR BODY CHARGED WITH THE ADMINISTRATION OF THE DEATH TAX

1 LAWS OF THE DOMICILIARY STATE MAY FILE WITH THE PROBATE COURT IN
2 THIS STATE A PETITION FOR AN ACCOUNTING OF THE ESTATE, AND THE
3 OFFICIAL OR BODY OF THE DOMICILIARY STATE SHALL, FOR THE PURPOSES
4 OF THIS SECTION, BE A PARTY INTERESTED FOR THE PURPOSE OF PETI-
5 TIONING THE PROBATE COURT FOR AN ACCOUNTING. IF THE PETITION IS
6 FILED WITHIN 60 DAYS, THE PROBATE COURT SHALL ORDER AN
7 ACCOUNTING. WHEN THE ACCOUNTING IS FILED AND APPROVED, THE PRO-
8 BATE COURT SHALL ORDER EITHER THE PAYMENT OF THE TAX FOUND TO BE
9 DUE TO THE DOMICILIARY STATE OR SUBDIVISION OF THE DOMICILIARY
10 STATE OR THE REMISSION TO A FIDUCIARY APPOINTED OR TO BE
11 APPOINTED BY THE PROBATE COURT, OR OTHER COURT CHARGED WITH THE
12 ADMINISTRATION OF ESTATES OF DECEDENTS, OF THE DOMICILIARY STATE,
13 OF THE BALANCE OF THE INTANGIBLE PERSONALTY AFTER THE PAYMENT OF
14 CREDITORS AND EXPENSES OF ADMINISTRATION IN THIS STATE.

15 (4) A FINAL ACCOUNT OF A PERSONAL REPRESENTATIVE OR ADMINIS-
16 TRATOR OF A NONRESIDENT DECEDENT SHALL NOT BE ALLOWED UNLESS 1 OF
17 THE FOLLOWING OCCURS:

18 (A) PROOF HAS BEEN FILED AS REQUIRED BY SUBSECTION (2).

19 (B) NOTICE UNDER SUBSECTION (3) HAS BEEN GIVEN TO THE OFFI-
20 CIAL OR BODY CHARGED WITH THE ADMINISTRATION OF THE DEATH TAX
21 LAWS OF THE DOMICILIARY STATE, AND THE OFFICIAL OR BODY HAS NOT
22 PETITIONED FOR AN ACCOUNTING WITHIN 60 DAYS AFTER THE MAILING OF
23 THE NOTICE.

24 (C) AN ACCOUNTING HAS BEEN MADE UNDER SUBSECTION (3), AN
25 ORDER HAS BEEN MADE UPON THE ACCOUNTING, AND IT APPEARS THAT THE
26 PERSONAL REPRESENTATIVE OR ADMINISTRATOR HAS PAID THE SUMS AND

1 REMITTED SECURITIES, IF ANY, AS HE OR SHE WAS REQUIRED TO PAY OR
2 REMIT BY THE ORDER.

3 (D) IT APPEARS THAT LETTERS TESTAMENTARY OR OF ADMINISTRA-
4 TION HAVE BEEN ISSUED BY THE DOMICILIARY STATE AND THAT NOTICE
5 HAS NOT BEEN GIVEN UNDER SUBSECTION (3).

6 (5) SUBSECTIONS (1) TO (4) SHALL APPLY TO THE ESTATE OF A
7 NONRESIDENT DECEDENT ONLY IF THE LAWS OF THE DOMICILIARY STATE
8 CONTAIN A PROVISION OF ANY NATURE GIVING THIS STATE REASONABLE
9 ASSURANCE, AS FINALLY DETERMINED BY THE AUDITOR GENERAL, OF THE
10 COLLECTION OF ITS DEATH TAXES, INTEREST, AND PENALTIES FROM THE
11 ESTATES OF DECEDENTS DYING DOMICILED IN THIS STATE, WHEN ESTATES
12 ARE ADMINISTERED IN WHOLE OR IN PART BY A PROBATE COURT OR OTHER
13 COURT CHARGED WITH THE ADMINISTRATION OF ESTATES OF DECEDENTS IN
14 THE OTHER STATE.

15 (6) THE PROVISIONS OF SUBSECTIONS (1) TO (5) SHALL BE LIBER-
16 ALLY CONSTRUED IN ORDER TO ENSURE THAT THE DOMICILIARY STATE OF
17 ANY NONRESIDENT DECEDENT WHOSE ESTATE IS ADMINISTERED IN THIS
18 STATE SHALL RECEIVE ANY DEATH TAXES, TOGETHER WITH INTEREST AND
19 PENALTIES, DUE TO IT FROM THE ESTATE OF THE DECEDENT.

20 SEC. 33. (1) THE TAX AND THE INTEREST ON THE TAX PROVIDED
21 FOR IN THIS ACT ARE A LIEN UPON THE PROPERTY TRANSFERRED UNTIL
22 PAID. THE PERSON TO WHOM THE PROPERTY IS TRANSFERRED AND THE
23 ADMINISTRATOR, PERSONAL REPRESENTATIVE, OR TRUSTEE OF EVERY
24 ESTATE TRANSFERRED ARE PERSONALLY LIABLE FOR THE TAX UNTIL ITS
25 PAYMENTS. THE TAX SHALL BE PAID TO THE TREASURER OF THE COUNTY
26 IN WHICH THE PROBATE COURT HAS JURISDICTION. THE COUNTY
27 TREASURER SHALL MAKE OUT RECEIPTS IN DUPLICATE, UPON FORMS

1 PRESCRIBED BY THE REVENUE COMMISSIONER, AND IMMEDIATELY SEND THE
2 RECEIPTS TO THE REVENUE COMMISSIONER, TOGETHER WITH THE AMOUNT
3 RECEIVED IN FUNDS BY LAW RECEIVABLE AT THE STATE TREASURY. THE
4 REVENUE COMMISSIONER SHALL THEN CHARGE THE TREASURER RECEIVING
5 THE TAX WITH THE AMOUNT OF THE TAX PAID AND CREDIT THE TREASURER
6 WITH THE PAYMENT OF THE TAX TO THE STATE TREASURER. IF THE
7 DETERMINATION OF THE TAX AND RECEIPT ARE BELIEVED TO BE IN
8 ACCORDANCE WITH LAW, THE REVENUE COMMISSIONER SHALL SEAL THE
9 RECEIPTS WITH THE SEAL OF THE OFFICE AND COUNTERSIGN THE SAME AND
10 RETURN 1 OF THEM TO THE COUNTY TREASURER WHO SHALL FILE AND PRE-
11 SERVE IT IN HIS OR HER OFFICE AND IMMEDIATELY SEND THE OTHER
12 RECEIPT TO THE JUDGE OF PROBATE WHO SHALL FILE AND PRESERVE IT IN
13 THAT OFFICE. THE RECEIPT IS A VOUCHER IN SETTLEMENT OF THE
14 ACCOUNTS OF THE PERSONAL REPRESENTATIVE, ADMINISTRATOR, OR
15 TRUSTEE OF THE ESTATE UPON WHICH THE TAX IS PAID. AT THE SAME
16 TIME, THE REVENUE COMMISSIONER SHALL SEND TO THE COUNTY TREASURER
17 THE STATE TREASURER'S RECEIPT, COUNTERSIGNED AS REQUIRED BY LAW,
18 SHOWING PAYMENT OF THE TAX. THE SEALING AND COUNTERSIGNING OF
19 THE RECEIPTS DOES NOT PREJUDICE THE RIGHT OF THE STATE TO A
20 REVIEW OF THE DETERMINATION FIXING THE TAX. A PERSONAL REPRESENTATIVE,
21 ADMINISTRATOR, OR TRUSTEE OF AN ESTATE, IN SETTLEMENT OF
22 WHICH A TAX IS DUE UNDER THIS ACT, SHALL NOT BE DISCHARGED AND
23 THE ESTATE OR TRUST CLOSED BY AN ORDER OF THE COURT, UNLESS THERE
24 IS PRODUCED A RECEIPT SIGNED BY THE COUNTY TREASURER AND SEALED
25 AND COUNTERSIGNED BY THE REVENUE COMMISSIONER OR A COPY OF THE
26 RECEIPT, CERTIFIED BY THE COUNTY TREASURER. WHEN THE TAX IS PAID
27 TO THE COUNTY TREASURER, THE COUNTY TREASURER, IN ADDITION TO THE

1 DUPLICATE RECEIPTS REQUIRED TO BE ISSUED, SHALL GIVE THE PERSONAL
2 REPRESENTATIVE, ADMINISTRATOR, TRUSTEE, OR OTHER PERSON PAYING
3 THE TAX A SIMPLE RECEIPT FOR THE AMOUNT RECEIVED.

4 (2) A PROCEEDING TO ENFORCE A LIEN AGAINST ANY PROPERTY
5 UNDER THIS ACT SHALL BE INSTITUTED BY INFORMATION, IN THE NAME OF
6 THE PEOPLE OF THIS STATE, ADDRESSED TO THE CIRCUIT COURT FOR THE
7 COUNTY IN WHICH THE PROPERTY IS SITUATED. IT SHALL BE SIGNED BY
8 THE ATTORNEY GENERAL AND NEED NOT BE OTHERWISE VERIFIED. A
9 PERSON OWNING THE PROPERTY OR AN INTEREST IN THE PROPERTY AS
10 SHOWN BY THE RECORD IN THE OFFICE OF THE REGISTER OF DEEDS OR BY
11 THE RECORDS OF THE PROBATE COURT, AT THE TIME OF THE COMMENCEMENT
12 OF THE PROCEEDINGS, SHALL BE MADE A PARTY TO THE ACTION. ALL
13 OTHER PERSONS HAVING A RIGHT OR INTEREST IN THE PROPERTY MAY MAKE
14 THEMSELVES PARTIES TO THE PROCEEDING ON MOTION TO THE COURT AND
15 NOTICE TO COMPLAINANT, AND MAY FILE THEIR INTERVENING OR
16 CROSS-CLAIMS, OR ANSWERS CLAIMING THE BENEFIT OF CROSS-CLAIMS,
17 AND NOTICES OF LIS PENDENS IN THE ACTION. INTERVENING OR
18 CROSS-CLAIMS SHALL BE MADE ON OATH.

19 (3) THE INFORMATION SHALL SHOW THE NAME OF THE DECEASED; THE
20 DATE OF DEATH; THE PLACE OF RESIDENCE AT THE TIME OF DEATH; THE
21 COUNTY IN WHICH THE ESTATE WAS PROBATED; THE DESCRIPTION OF THE
22 PROPERTY TRANSFERRED, WHETHER BY WILL OR UNDER THE INTESTATE
23 LAWS, AND AGAINST WHICH THE LIEN EXISTS; THE NAME OF THE PERSON
24 OR PERSONS TO WHOM IT WAS TRANSFERRED; THE AMOUNT OF TAXES DETER-
25 MINED BY THE PROBATE COURT UPON THE TRANSFER; THE DATE OF THE
26 DETERMINATION; AND WHETHER THE PROPERTY IS OWNED BY THE PERSON OR
27 PERSONS TO WHOM IT WAS TRANSFERRED BY WILL, UNDER THE INTESTATE

1 LAWS, OR BY A SUBSEQUENT PURCHASER, NAMING THAT PURCHASER. THE
2 INFORMATION SHALL ALSO SHOW THAT THE TAXES DETERMINED UPON THE
3 TRANSFER OF THE PROPERTY HAVE NOT BEEN PAID AND THE AMOUNT OF
4 INTEREST DUE UPON THE DATE OF THE FILING OF THE INFORMATION. IF
5 THE PROPERTY UPON WHICH THE LIEN EXISTS IS OWNED BY THE PERSON OR
6 PERSONS TO WHOM IT WAS TRANSFERRED BY WILL OR UNDER THE INTESTATE
7 LAWS, THE PETITION FOR RELIEF SHALL BE THAT THE COURT DETERMINE
8 THE AMOUNT DUE; THAT THE DEFENDANT PAY TO THE COUNTY TREASURER OF
9 THE COUNTY IN WHICH THE ESTATE WAS PROBATED, FOR AND IN BEHALF OF
10 THIS STATE, WHATEVER SUM APPEARS TO BE DUE, TOGETHER WITH THE
11 COSTS OF THE PROCEEDING; AND THAT IN DEFAULT OF THAT PAYMENT THE
12 PROPERTY UPON WHICH THE LIEN EXISTS MAY BE SOLD IN THE MANNER
13 PROVIDED IN THIS ACT TO SATISFY THE TAXES, INTEREST, AND COSTS.
14 IF THE PROPERTY UPON WHICH THE LIEN EXISTS IS OWNED BY A SUBSE-
15 QUENT PURCHASER, THE PETITION FOR RELIEF SHALL BE THAT THE COURT
16 DETERMINE THE AMOUNT DUE AND THAT THE PROPERTY UPON WHICH THE
17 LIEN EXISTS MAY BE SOLD IN THE MANNER PROVIDED IN THIS ACT TO
18 SATISFY THE TAXES, INTEREST, AND COSTS OF THE PROCEEDING. THE
19 INFORMATION MAY CONTAIN OTHER AND FURTHER ALLEGATIONS AND PETI-
20 TIONS CONSIDERED MATERIAL AND PERMITTED BY THE RULES AND PRACTICE
21 OF THE COURT.

22 (4) A CERTIFIED COPY OF THE ORDER OF DETERMINATION OF THE
23 INHERITANCE TAX FOR WHICH THE LIEN EXISTS, CERTIFIED BY EITHER
24 THE JUDGE OR REGISTER OF PROBATE OF THE COURT THAT DETERMINED THE
25 TAX OR BY THE REVENUE COMMISSIONER, MAY BE ATTACHED TO THE
26 INFORMATION. WHEN ATTACHED, THE COPY IS CONSIDERED A PART OF THE
27 INFORMATION AND IS PRIMA FACIE EVIDENCE OF THE DETERMINATION OF

1 THE INHERITANCE TAX AND THE ACCRUING OF THE LIEN AGAINST THE
2 PROPERTY. A CERTIFICATE OF THE REVENUE COMMISSIONER STATING THAT
3 THE INHERITANCE TAX, OR ANY PART OF THE TAX DETERMINED UPON THE
4 TRANSFER OF THE PROPERTY UPON WHICH THE LIEN EXISTS, HAS NOT BEEN
5 PAID MAY BE ATTACHED TO THE INFORMATION. WHEN ATTACHED, THE CER-
6 TIFICATE IS CONSIDERED A PART OF THE INFORMATION AND IS PRIMA
7 FACIE EVIDENCE OF THE NONPAYMENT OF THE AMOUNT OF THE TAX AND
8 INTEREST SHOWN TO BE UNPAID BY THE CERTIFICATE.

9 (5) IF AN INFANT, INSANE, OR OTHERWISE MENTALLY INCOMPETENT
10 PERSON HAS AN INTEREST IN THE PROPERTY UPON WHICH THE LIEN
11 EXISTS, SERVICE OF PROCESS SHALL BE MADE UPON THAT PERSON IN THE
12 SAME MANNER AND WITH THE SAME EFFECT AS UPON PERSONS NOT UNDER A
13 DISABILITY, WHETHER THE INFANT, INSANE, OR OTHERWISE MENTALLY
14 INCOMPETENT PERSON IS WITHIN OR WITHOUT THE JURISDICTION.

15 (6) AFTER THE ISSUING AND SERVICE OF PROCESS AGAINST THE
16 INFANT, INSANE, OR OTHERWISE INCOMPETENT PERSON, A GUARDIAN AD
17 LITEM MAY BE APPOINTED FOR THE INFANT, INSANE, OR OTHERWISE
18 INCOMPETENT PERSON BY THE COURT UPON MOTION OF THE ATTORNEY GEN-
19 ERAL, OR THE GUARDIAN AD LITEM MAY BE APPOINTED BY THE COURT UPON
20 THE REQUEST OF THE INFANT, AND IN THE CASE OF AN INSANE OR OTHER-
21 WISE INCOMPETENT PERSON, AT THE REQUEST OF THE PERSON'S GENERAL
22 GUARDIAN.

23 (7) AT THE HEARING OF THE CAUSE OF ACTION, IF IT APPEARS
24 THAT THE INHERITANCE TAXES OR INTEREST, OR BOTH, UPON THE TRANS-
25 FER OF THE PROPERTY UPON WHICH THE LIEN EXISTS HAVE NOT BEEN
26 PAID, THE COURT SHALL ORDER THAT THE AMOUNT OF TAXES AND INTEREST
27 ON THE TAXES DUE, TOGETHER WITH COSTS DETERMINED BY THE COURT, TO

1 BE PAID BY THE PERSON OR PERSONS OWNING THE PROPERTY OR ANY
2 INTEREST IN THE PROPERTY WITHIN 3 MONTHS AFTER THE ENTRY OF THE
3 ORDER AND THAT, IN DEFAULT OF PAYMENT, THE PROPERTY UPON WHICH
4 THE LIEN EXISTS BE SOLD TO SATISFY THE TAXES, INTEREST, AND
5 COSTS. IF IT APPEARS THAT THE PERSON OR PERSONS TO WHOM WAS
6 TRANSFERRED THE PROPERTY BY WILL OR UNDER THE INTESTATE LAWS HAVE
7 PARTED WITH THEIR INTEREST BEFORE THE INSTITUTION OF THE PROCEED-
8 INGS PROVIDED FOR IN THIS SECTION, AND THAT THE PROPERTY IS OWNED
9 BY A SUBSEQUENT PURCHASER, THE COURT SHALL ORDER THAT THE PROP-
10 ERTY BE SOLD TO SATISFY THE TAXES, INTEREST, AND COSTS, UNLESS
11 THE OWNER SATISFIES THE TAXES, INTEREST, AND COSTS WITHIN 3
12 MONTHS AFTER THE ENTRY OF THE ORDER. HOWEVER, IF IT APPEARS THAT
13 2 OR MORE PIECES OR PARCELS OF LAND WERE TRANSFERRED BY WILL OR
14 UNDER THE INTESTATE LAWS TO 1 PERSON, THAT THE PERSON, BEFORE THE
15 INSTITUTION OF THE PROCEEDINGS PROVIDED FOR IN THIS SECTION, HAS
16 PARTED WITH ANY OR ALL OF THE PIECES OR PARCELS OF LAND, THAT THE
17 COURT CAN ASCERTAIN FROM THE ORDER OF DETERMINATION THE AMOUNT OF
18 INHERITANCE TAX DETERMINED UPON THE TRANSFER OF EACH PIECE OR
19 PARCEL, AND THAT THE LIEN AGAINST ALL OF THE PIECES OR PARCELS IS
20 BEING FORECLOSED IN 1 PROCEEDING, THE COURT MAY ORDER THE SALE OF
21 THAT PIECE OR PARCEL TO SATISFY THE AMOUNT OF TAX DETERMINED UPON
22 THE TRANSFER OF THAT PIECE OR PARCEL, TOGETHER WITH THE INTEREST
23 ON THE TAX AND PRO RATA COSTS OF THE PROCEEDING. A PIECE OR
24 PARCEL OF PROPERTY SHALL NOT BE SOLD TO SATISFY TAXES, INTEREST,
25 AND COSTS WITHIN 3 MONTHS AFTER THE ENTRY OF THE ORDER. IF THE
26 PERSON OR PERSONS OWNING THE PROPERTY OR AN INTEREST IN THE
27 PROPERTY, OR THE PERSON'S HEIRS, PERSONAL REPRESENTATIVES,

1 ADMINISTRATORS, OR A PERSON LAWFULLY CLAIMING FROM OR UNDER HIM,
2 HER, OR THEM, WITHIN 6 MONTHS AFTER THE TIME OF THE SALE REDEEMS
3 THE ENTIRE PREMISES SOLD BY PAYING TO THE REGISTER OF DEEDS IN
4 WHOSE OFFICE THE DEED IS DEPOSITED, AS PROVIDED BY SUBSECTION
5 (11), FOR THE BENEFIT OF THE PURCHASER, OR THE PURCHASER'S PER-
6 SONAL REPRESENTATIVES, ADMINISTRATORS, OR ASSIGNS, THE SUM THAT
7 WAS BID AT THE TIME OF SALE, WITH INTEREST, AT THE RATE OF 6%,
8 TOGETHER WITH THE SUM OF \$1.00 AS A FEE FOR THE CARE AND CUSTODY
9 OF THE REDEMPTION MONEY AND THE FEE PAID BY THE PURCHASER FOR
10 RECORDING HIS OR HER DEED, THEN THE DEED SHALL BE VOID AND OF NO
11 EFFECT. HOWEVER, IF A DISTINCT LOT OR PARCEL SEPARATELY SOLD IS
12 REDEEMED LEAVING A PORTION OF THE PREMISES UNREDEEMED, THEN THE
13 DEED SHALL BE INOPERATIVE MERELY TO THE PARCEL OR PARCELS
14 REDEEMED AND TO THOSE PORTIONS NOT REDEEMED SHALL REMAIN VALID
15 AND OF FULL EFFECT.

16 (8) IF IT APPEARS TO THE COURT AFTER THE EXPIRATION OF 3
17 MONTHS FROM THE DATE OF ENTRY OF THE ORDER FROM A CERTIFICATE OF
18 THE COUNTY TREASURER TO WHOM THE TAXES, INTEREST, AND COSTS WERE
19 TO BE PAID, ATTACHED TO A PETITION OF THE ATTORNEY GENERAL FOR AN
20 ORDER OF SALE OF THE PROPERTY, THAT THE SAME HAVE NOT BEEN PAID,
21 THE COURT SHALL ENTER AN ORDER DIRECTING A PERSON DULY AUTHORIZED
22 TO SELL THE PROPERTY. THE SALE SHALL BE AT PUBLIC AUCTION
23 BETWEEN THE HOURS OF 9 A.M. AND 6 P.M. AT THE COURTHOUSE OR AT
24 ANOTHER PLACE AS THE COURT DIRECTS, WITHIN 60 DAYS AFTER THE DATE
25 OF THE ORDER AND ON THE DATE SPECIFIED ON THE ORDER. THE COURT,
26 IF NECESSARY, BY FURTHER ORDER MAY ADJOURN THE SALE FROM TIME TO
27 TIME. IF BIDS ARE NOT RECEIVED EQUAL TO THE AMOUNT OF TAXES,

1 INTEREST, AND COSTS, THE PERSON AUTHORIZED TO MAKE THE SALE MAY
2 ADJOURN THE SALE FROM TIME TO TIME, BUT THE SALE SHALL NOT BE
3 ADJOURNED FOR MORE THAN 60 DAYS AT ANY 1 TIME.

4 (9) UPON RECEIPT OF A CERTIFIED COPY OF THE ORDER OF SALE,
5 THE PERSON DULY AUTHORIZED BY THE ORDER OF THE COURT TO CONDUCT
6 THE SALE SHALL PUBLISH THE SALE IN SOME NEWSPAPER PRINTED IN THE
7 COUNTY, OR ANOTHER PAPER AS THE COURT MAY DIRECT, ONCE IN EACH
8 WEEK FOR 3 WEEKS IN SUCCESSION. IF THE SALE IS ADJOURNED BY
9 ORDER OF THE COURT, OR THE PERSON DULY AUTHORIZED BY THE ORDER OF
10 THE COURT TO CONDUCT THE SALE, THE SAME PUBLICATION SHALL BE HAD
11 OF THE ORDER OR NOTICE ADJOURNING THE SALE AS IS PROVIDED IN THIS
12 SECTION FOR PUBLISHING THE ORDER OF SALE. PROOF OF PUBLICATION
13 SHALL BE FILED WITH THE COURT BEFORE THE SALE.

14 (10) THE PERSON AUTHORIZED TO MAKE THE SALE SHALL MAKE AND
15 FILE A REPORT OF THE SALE. THE REPORT SHALL BE ENTITLED IN THE
16 COURT AND CAUSE, AND SHALL BE CERTIFIED AND FILED WITH THE
17 COURT.

18 (11) DEEDS SHALL BE EXECUTED BY THE PERSON MAKING THE SALE,
19 SPECIFYING THE NAMES OF THE PARTIES IN THE ACTION, THE NAME OF
20 THE DECEASED, THE DATE OF THE DETERMINATION OF THE INHERITANCE
21 TAX, THE NAME OF THE DECEASED, THE COUNTY IN WHICH THE ESTATE WAS
22 PROBATED, A DESCRIPTION OF THE PROPERTY, AND THE AMOUNT FOR WHICH
23 EACH PARCEL OF LAND DESCRIBED WAS SOLD. THE PERSON MAKING THE
24 SALE SHALL INDORSE UPON EACH DEED WHEN THE DEED BECOMES OPERA-
25 TIVE, IF THE PREMISES ARE NOT REDEEMED ACCORDING TO LAW. THE
26 DEED OR DEEDS, AS SOON AS PRACTICABLE AND WITHIN 20 DAYS AFTER
27 THE SALE, SHALL BE DEPOSITED WITH THE REGISTER OF DEEDS OF THE

1 COUNTY IN WHICH THE LAND DESCRIBED IS SITUATED. THE REGISTER
2 SHALL INDORSE ON THE DEED THE TIME THE DEED WAS RECEIVED, SHALL
3 RECORD THE DEED AT LENGTH IN A BOOK TO BE PROVIDED FOR IN HIS OR
4 HER OFFICE FOR THAT PURPOSE, AND SHALL INDEX THE DEED IN THE REG-
5 ULAR INDEX OF DEEDS. THE FEES FOR RECORDING THE DEED SHALL BE
6 PAID BY THE PURCHASER AND BE INCLUDED AMONG THE OTHER COSTS AND
7 EXPENSES. IF THE PREMISES OR A PARCEL OF THE PREMISES IS
8 REDEEMED, THE REGISTER OF DEEDS SHALL WRITE ON THE FACE OF THE
9 RECORD THE WORD "REDEEMED", STATING AT WHAT DATE THE ENTRY IS
10 MADE AND SIGNING THE ENTRY WITH HIS OR HER OFFICIAL SIGNATURE.
11 UNLESS THE PREMISES DESCRIBED IN THE DEED, OR A PARCEL OF THE
12 PREMISES, IS REDEEMED WITHIN THE TIME LIMITED FOR REDEMPTION AS
13 PROVIDED IN THIS SECTION, THE DEED AS TO ALL PARCELS NOT REDEEMED
14 SHALL BECOME OPERATIVE AND SHALL VEST IN THE GRANTEE NAMED IN THE
15 DEED, OR THE GRANTEE'S HEIRS OR ASSIGNS, ALL THE RIGHT, TITLE,
16 AND INTEREST THAT THE PERSON OR PERSONS RECEIVED EITHER FROM THE
17 DECEASED BY REASON OF THE TRANSFER TO THEM BY WILL OR UNDER THE
18 INTESTATE LAWS, OR AS SUBSEQUENT PURCHASERS.

19 (12) THE PROCEEDS OF EACH SALE PROVIDED FOR IN THIS SECTION
20 SHALL BE PAID TO THE TREASURER OF THE COUNTY WHERE THE ESTATE WAS
21 PROBATED, TO BE APPLIED TO THE DISCHARGE OF THE TAX, INTEREST,
22 AND COSTS. IF THERE IS ANY SURPLUS, IT SHALL BE BROUGHT INTO
23 COURT FOR THE USE OF THE DEFENDANT, OR THE PERSON ENTITLED TO THE
24 SURPLUS, SUBJECT TO THE ORDER OF THE COURT. THE REDEMPTION MONEY
25 PAID TO THE REGISTER OF DEEDS SHALL BE PAID TO THE PERSONS ENTI-
26 TLED TO THE MONEY AS SOON AS PRACTICAL, AND IF THE STATE WAS THE
27 PURCHASER, THE MONEY SHALL BE PAID TO THE TREASURER OF THE COUNTY

1 WHERE THE ESTATE WAS PROBATED. IF THERE IS ANY SURPLUS AFTER THE
2 TAX, INTEREST, AND COSTS ARE SATISFIED, THAT SURPLUS SHALL BE
3 BROUGHT INTO COURT FOR THE USE OF THE DEFENDANT OR THE PERSON
4 ENTITLED TO THE SURPLUS, SUBJECT TO THE ORDER OF THE COURT.

5 (13) UPON THE FILING OF THE INFORMATION, A FEE OF \$2.00
6 SHALL BE PAID TO THE COURT FOR ALL REGISTER FEES AND CHARGES IN
7 THE PROCEEDINGS. THE PERSON AUTHORIZED BY THE COURT TO MAKE THE
8 SALE IS ENTITLED TO A FEE OF \$1.00 FOR ATTENDING AND ADJOURNING A
9 SALE; \$1.50 FOR ATTENDING AND MAKING A SALE; 10 CENTS PER MILE
10 FOR MILEAGE, 1 WAY; 25 CENTS FOR EACH DEED NECESSARILY EXECUTED
11 FOR REAL ESTATE SALES; AND \$1.00 FOR MAKING AND FILING A REPORT
12 OF SALE. THE COST OF PUBLISHING ANY LEGAL NOTICES REQUIRED TO BE
13 PUBLISHED SHALL BE AT THE RATE OF 70 CENTS PER FOLIO FOR THE
14 FIRST INSERTION AND 35 CENTS PER FOLIO FOR EACH SUBSEQUENT
15 INSERTION. THE FEES THAT ARE PROVIDED FOR IN THIS ACT SHALL BE
16 ADDED BY THE PERSON DULY AUTHORIZED TO MAKE THE SALE TO THE TAX,
17 INTEREST, AND COSTS AWARDED BY THE COURT AS CHARGES AGAINST THE
18 LAND.

19 SEC. 34. (1) THE TAX IMPOSED BY THIS ACT ACCRUES AND IS DUE
20 AND PAYABLE AT THE TIME REQUIRED FOR THE FILING OF THE FEDERAL
21 ESTATE TAX RETURN. FOR FAILURE OR REFUSAL TO PAY THE TAX
22 REQUIRED BY THIS ACT, INTEREST SHALL BE ADDED AT THE RATE OF 3/4
23 OF 1% PER MONTH OR FRACTION OF A MONTH ON THE AMOUNT OF THE TAX
24 FROM THE TIME THE TAX WAS ACCRUED UNTIL THE DATE OF PAYMENT.

25 (2) IF BY REASON OF CLAIMS MADE UPON THE ESTATE, NECESSARY
26 LITIGATION, OR OTHER UNAVOIDABLE CAUSE OF DELAY, THE TAX CANNOT
27 BE COMPLETELY DETERMINED AND PAID, A PARTIAL OR INTERIM PAYMENT

1 TOGETHER WITH A REQUEST FOR EXTENSION SHALL BE MADE BEFORE THE
2 DUE DATE, AND INTEREST AT THE RATE OF $3/4$ OF 1% PER MONTH SHALL
3 BE ADDED TO THE AMOUNT OF TAX UNPAID FOR THE PERIOD OF EXTENSION
4 UNTIL THE TAX IS DETERMINED, OR COULD BE DETERMINED UNTIL THE
5 DATE OF THE PAYMENT.

6 (3) IF THE BALANCE OF THE TAX DUE REMAINS UNPAID FOR MORE
7 THAN 30 DAYS, THERE SHALL BE ADDED INTEREST AT THE RATE OF $3/4$ OF
8 1% PER MONTH OR ANY FRACTION OF A MONTH ON THE AMOUNT OF THE
9 UNPAID BALANCE OF THE TAX FROM THE TIME THE TAX WAS DETERMINED OR
10 COULD HAVE BEEN DETERMINED UNTIL THE DATE OF PAYMENT.

11 (4) FOR FAILURE OR REFUSAL TO FILE A RETURN OR REPORT
12 REQUIRED BY THIS ACT, WITHIN THE TIME SPECIFIED BY THIS ACT,
13 THERE SHALL BE ADDED A PENALTY OF \$5.00 PER DAY FOR EACH DAY FOR
14 EACH SEPARATE FAILURE OR REFUSAL. THE TOTAL PENALTY FOR EACH
15 SEPARATE FAILURE OR REFUSAL SHALL NOT EXCEED \$200.00.

16 (5) IF A RETURN, REPORT, OR REMITTANCE IS FILED AFTER THE
17 TIME SPECIFIED BY THIS ACT AND IT IS SHOWN TO THE SATISFACTION OF
18 THE DEPARTMENT THAT THE FAILURE TO FILE WAS DUE TO REASONABLE
19 CAUSE AND NOT TO WILLFUL NEGLECT, THE PENALTY MAY BE WAIVED.

20 SEC. 35. EXCEPT AS PROVIDED, A PERSONAL REPRESENTATIVE,
21 ADMINISTRATOR, TRUSTEE, OR OTHER PERSON HAS FULL POWER TO SELL OR
22 MORTGAGE AS MUCH OF THE PROPERTY OF THE DECEDENT AS NECESSARY TO
23 ENABLE HIM OR HER TO PAY THE TAX IN THE SAME MANNER AS HE OR SHE
24 IS ENTITLED BY LAW TO DO FOR THE PAYMENT OF THE DEBTS OF A DECE-
25 DENT OR WARD. IF THE TRANSFER IS TO 2 OR MORE PERSONS IN COMMON,
26 AND 1 OR MORE OF THEM HAVE PAID HIS OR HER PROPORTION OF THE TAX,
27 THE PERSONAL REPRESENTATIVE, ADMINISTRATOR, TRUSTEE, OR OTHER

1 PERSON SHALL SELL OR MORTGAGE ONLY THE INTEREST OF THE PERSONS TO
2 WHOM THE PROPERTY WAS TRANSFERRED THAT HAVE NOT PAID THE TAX IN
3 ORDER TO PAY THE TAX DUE UPON THAT SHARE OR SHARES. AN ADMINIS-
4 TRATOR, PERSONAL REPRESENTATIVE, TRUSTEE, OR OTHER PERSON HAVING
5 IN CHARGE OR IN TRUST ANY LEGACY OR PROPERTY FOR DISTRIBUTION
6 SUBJECT TO THE TAX SHALL DEDUCT THE TAX FROM THE LEGACY OR PROP-
7 ERTY AND WITHIN 30 DAYS SHALL PAY THE LEGACY OR PROPERTY TO THE
8 COUNTY TREASURER. IF THE LEGACY OR PROPERTY IS NOT MONEY, HE OR
9 SHE SHALL COLLECT THE TAX AS DETERMINED BY THE JUDGE OF PROBATE
10 FROM THE PERSON ENTITLED TO THE LEGACY OR PROPERTY, UNLESS THE
11 TAX HAS BEEN PAID TO THE COUNTY TREASURER. HE OR SHE SHALL NOT
12 DELIVER OR BE COMPELLED TO DELIVER ANY SPECIFIC LEGACY OR PROP-
13 ERTY SUBJECT TO TAX UNDER THIS ACT TO ANY PERSON UNTIL THE TAX
14 ASSESSED ON IT HAS BEEN PAID TO HIM OR HER OR TO THE COUNTY
15 TREASURER. IF ANY LEGACY IS CHARGED UPON OR PAYABLE OUT OF REAL
16 PROPERTY AND IS TAXABLE UNDER THIS ACT, THE DEVISEE CHARGED WITH
17 THE PAYMENT OF THE LEGACY SHALL DEDUCT THE TAX AND PAY IT TO THE
18 COUNTY TREASURER OR THE ADMINISTRATOR, PERSONAL REPRESENTATIVE,
19 OR TRUSTEE. PAYMENT OF THE TAX SHALL BE ENFORCED BY THE PERSONAL
20 REPRESENTATIVE, ADMINISTRATOR, OR TRUSTEE, IN THE SAME MANNER AS
21 PAYMENT OF THE LEGACY MIGHT BE ENFORCED, OR BY THE ATTORNEY GEN-
22 ERAL OR PROSECUTING ATTORNEY BY THE APPROPRIATE LEGAL
23 PROCEEDING. IF THE LEGACY IS GIVEN IN MONEY TO ANY PERSON FOR A
24 LIMITED PERIOD, THE ADMINISTRATOR, PERSONAL REPRESENTATIVE,
25 TRUSTEE, OR OTHER PERSON SHALL RETAIN THE TAX UPON THE WHOLE
26 AMOUNT. IF THE LEGACY IS NOT IN MONEY, HE OR SHE SHALL MAKE AN
27 APPLICATION TO THE COURT HAVING JURISDICTION OF AN ACCOUNTING BY

1 HIM OR HER TO MAKE AN APPORTIONMENT OF THE SUM TO BE PAID BY THE
2 LEGATEE AND FOR ANY FURTHER ORDER THAT IS NECESSARY.

3 SEC. 36. IF A DEBT IS ALLOWED AGAINST THE ESTATE OF A DECE-
4 DENT AFTER THE PAYMENT OF ANY LEGACY OR DISTRIBUTIVE SHARE FROM
5 WHICH A TAX HAS BEEN DEDUCTED OR UPON WHICH IT HAS BEEN PAID BY
6 THE PERSON ENTITLED TO THE LEGACY OR DISTRIBUTIVE SHARE, AND THE
7 PERSON IS REQUIRED TO REFUND THE AMOUNT OF THE DEBTS OR ANY PART
8 OF THE DEBTS, UPON THE ORDER OF THE COURT, AN EQUITABLE PROPOR-
9 TION OF THE TAX SHALL BE PAID TO HIM OR HER BY THE PERSONAL REP-
10 RESENTATIVE, ADMINISTRATOR, TRUSTEE, OR OTHER PERSON, IF THE TAX
11 HAS NOT BEEN PAID TO THE COUNTY TREASURER. IF AN AMOUNT OF THE
12 TAX HAS BEEN PAID ERRONEOUSLY INTO THE COUNTY TREASURY BY REASON
13 OF THE ALLOWANCE OF DEBTS OR OTHERWISE, UPON SATISFACTORY PROOF
14 OF THE ORDER OF THE PROPER COURT ALLOWING THE DEBTS OR OF THE
15 REVERSAL, CORRECTION, OR ALTERATION OF THE ORDER FIXING THE TAX,
16 THE STATE TREASURER MAY DRAW A WARRANT FOR THE ERRONEOUS PAYMENT,
17 TO BE REFUNDED TO THE PERSONAL REPRESENTATIVE, ADMINISTRATOR,
18 TRUSTEE, PERSON, OR PERSONS ENTITLED TO RECEIVE IT, AND CHARGE
19 THE SAME TO THE FUND THAT RECEIVES CREDIT FROM THE PAYMENT OF
20 TAXES UNDER THE PROVISIONS OF THIS ACT. ALL APPLICATIONS FOR THE
21 REFUNDING OF ERRONEOUS TAX SHALL BE MADE WITHIN 6 MONTHS AFTER
22 THE ALLOWANCE OF THE DEBTS OR THE REVERSAL, CORRECTION, OR ALTER-
23 ATION OF THE ORDER.

24 SEC. 37. A SAFE AND COLLATERAL DEPOSIT COMPANY, TRUST COM-
25 PANY, CORPORATION, BANK, OR OTHER INSTITUTION, OR PERSON HAVING
26 IN POSSESSION OR CUSTODY, AT THE DATE OF DEATH OF A DECEDENT WHO
27 WAS A NONRESIDENT OF THIS STATE, PROPERTY BELONGING TO THE

1 NONRESIDENT DECEDENT OR BELONGING TO THE NONRESIDENT DECEDENT AND
2 1 OR MORE PERSONS, EXCEPT INTANGIBLE PERSONAL PROPERTY AND SECUR-
3 ITIES, DEPOSITS, OR OTHER ASSETS CONTAINED IN A SAFE DEPOSIT BOX
4 OR COMPARTMENT, SHALL NOT MAKE DELIVERY OR SURRENDER POSSESSION
5 OR CUSTODY OF THE PROPERTY TO THE FOREIGN PERSONAL REPRESENTATIVE
6 OF THE NONRESIDENT DECEDENT OR TO JOINT OWNERS, EXCEPT IF THE
7 INDICATED OWNERSHIP OR REGISTERED TITLE DENOTES OWNERSHIP BY
8 RIGHT OF SURVIVORSHIP OR ON AN ORDER OF THE PROBATE COURT AFTER
9 THE TAX, IF ANY IS DUE, ON THE PROPERTY IS PAID. IF ANY SECURI-
10 TIES, DEPOSITS, OR OTHER ASSETS CONTAINED IN A SAFE DEPOSIT BOX
11 OR COMPARTMENT BECOME SUBJECT TO THE JURISDICTION OF A PROBATE
12 COURT OF THIS STATE THROUGH REGULAR PROBATE PROCEEDINGS, A SAFE
13 AND COLLATERAL DEPOSIT COMPANY, TRUST COMPANY, CORPORATION, BANK,
14 OR OTHER INSTITUTION, OR PERSON HAVING POSSESSION OR CUSTODY OF
15 THOSE SECURITIES, DEPOSITS, OR OTHER ASSETS MAY DELIVER OR SUR-
16 RENDER POSSESSION OR CUSTODY OF THOSE SECURITIES, DEPOSITS, OR
17 OTHER ASSETS TO THE PERSONAL REPRESENTATIVE APPOINTED BY A PRO-
18 BATE COURT OF THIS STATE WITHOUT BEING FURNISHED WITH A RECEIPT
19 OR ORDER, IF NOTICE OF THE TIME AND PLACE OF THE INTENDED DELIV-
20 ERY OR SURRENDER OF POSSESSION OR CUSTODY IS SERVED, EITHER PER-
21 SONALLY OR BY REGISTERED MAIL, UPON THE DEPARTMENT OF TREASURY
22 PURSUANT TO SECTION 9F. THE DUTIES OF THE SAFE AND COLLATERAL
23 DEPOSIT COMPANY, TRUST COMPANY, CORPORATION, BANK, OR OTHER
24 INSTITUTION, OR PERSON WITH RESPECT TO THOSE SECURITIES, DEPOS-
25 ITS, OR OTHER ASSETS ARE THE SAME AS THOSE PERTAINING TO SECURI-
26 TIES, DEPOSITS, OR OTHER ASSETS OF A RESIDENT DECEDENT AS
27 PROVIDED IN SECTION 9.

1 SEC. 38. THE JUDGE OF PROBATE, UPON THE APPLICATION OF ANY
2 INTERESTED PARTY, INCLUDING THE DEPARTMENT OF TREASURY AND COUNTY
3 TREASURERS, OR UPON HIS OR HER OWN MOTION, MAY APPOINT A COMPE-
4 TENT PERSON AS APPRAISER TO FIX THE CLEAR MARKET VALUE, AT THE
5 TIME OF THE TRANSFER, OF PROPERTY THAT IS SUBJECT TO THE PAYMENT
6 OF ANY TAX IMPOSED BY THIS ACT. THE APPRAISER SHALL BE REIM-
7 BURED FOR NECESSARY TRAVELING AND OTHER EXPENSES AS DETERMINED
8 BY THE JUDGE OF PROBATE.

9 SEC. 39. THE DEPARTMENT OF TREASURY MAY PRESCRIBE AND FUR-
10 NISH TO THE JUDGE OF PROBATE A FORM OR FORMS CONTAINING DATA THAT
11 ARE REQUIRED FOR PROPER DETERMINATION OF THE TAX.

12 SEC. 40. EACH JUDGE OF PROBATE SHALL ENTER AN ORDER INDI-
13 CATING THE AMOUNT OF TAX DUE. WITHIN 3 DAYS AFTER THE ORDER IS
14 ENTERED, THE JUDGE OF PROBATE SHALL MAKE CERTIFIED COPIES OF THE
15 ORDER UPON FORMS FURNISHED BY THE DEPARTMENT OF TREASURY AND
16 IMMEDIATELY DELIVER 1 TO THE COUNTY TREASURER AND 1 TO THE
17 DEPARTMENT OF TREASURY. THE COUNTY TREASURER SHALL OBTAIN THE
18 INFORMATION FOR MAKING A DUPLICATE RECEIPT REQUIRED BY SECTION 3,
19 FROM THE CERTIFIED COPY. IF IN ANY CALENDAR QUARTER BEGINNING
20 JANUARY, APRIL, JULY, OR OCTOBER 1 IN EACH YEAR, THERE HAS BEEN
21 NO TAX DETERMINED, THE JUDGE OF PROBATE SHALL MAKE A REPORT TO
22 THE DEPARTMENT OF TREASURY AFFIRMATIVELY SHOWING THIS FACT.

23 SEC. 41. AS USED IN THIS ACT:

24 (A) "ESTATE" OR "PROPERTY" MEANS THE PROPERTY OR INTEREST IN
25 PROPERTY, INCLUDING BOTH REAL AND PERSONAL PROPERTY OR ANYTHING
26 THAT MAY BE THE SUBJECT OF OWNERSHIP, OF THE DECEDENT SUBJECT TO
27 THIS ACT.

1 (B) "TRANSFER" INCLUDES THE PASSING OF PROPERTY OR AN
2 INTEREST IN PROPERTY IN POSSESSION OR ENJOYMENT, PRESENT OR
3 FUTURE, BY INHERITANCE, DESCENT, DEVISE, BEQUEST, GRANT, DEED,
4 BARGAIN, SALE, OR GIFT.

5 (C) "COUNTY TREASURER" OR "PROSECUTING ATTORNEY" MEANS THE
6 COUNTY TREASURER OR PROSECUTING ATTORNEY OF THE COUNTY HAVING
7 JURISDICTION PURSUANT TO SECTION 10.