

MAINE STATE LEGISLATURE

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EIGHTH REVISION

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CHAPTER 142.

INHERITANCE, SUCCESSION, AND ESTATE TAXES.

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Revisor's note: See P. L. 1933, c. 148, § 43, re effect of this chapter on chapter 77 of the Revised Statutes of 1930.

Administration

Sec. 1. Attorney-general to enforce and administer inheritance and succession tax laws. 1933, c. 148, § 1. The assessment and collection of all taxes on inheritances and successions and of all estate taxes and the enforcement and administration of all the provisions of law relating thereto shall be vested in the attorney-general who shall commission one of his assistant attorneys-general as inheritance tax commissioner, hereinafter referred to as the "commissioner".

In the absence or disability of the commissioner, the attorney-general or his deputy may designate an acting commissioner who shall be vested with all the powers of and shall perform all the duties of the commissioner during such absence or disability.

Property Taxable

Sec. 2. Property taxable; exemptions. 1933, c. 148, § 2. 1939, c. 122. The following property shall be subject to an inheritance tax for the use of the state:

I. All property within the jurisdiction of this state and any interest therein belonging to inhabitants of this state and all real estate or any interest therein and all tangible personal property within the state belonging to persons who are not inhabitants of this state which shall pass:

A. By will, by laws regulating intestate succession or by allowance of a judge of probate,

B. By deed, grant, sale, or gift except in case of a bona fide purchase for full consideration in money or money's worth, made in contemplation of the death of the grantor or donor, or made or intended to take effect in possession or enjoyment after the death of the grantor or donor to any person in trust or otherwise,

C. By survivorship in any form of joint ownership including joint bank deposits in which the decedent joint owner contributed during his lifetime any part of the property held in such joint ownership or of the purchase price thereof;

II. All proceeds of life insurance policies upon the life of a decedent payable to his estate or to his executors or administrators except, if testate, such

part thereof as is bequeathed to a widow, or widower, or issue, or, if intestate, such part thereof as descends under the provisions of section 21 of chapter 156.

All property which shall pass to or for the use of societies, corporations, and institutions now or hereafter exempted by law from taxation, or to a public corporation, or to any society, corporation, institution, or association of persons engaged in or devoted to any charitable, religious, benevolent, educational, public, or other like work, pecuniary profit not being its object or purpose, or to any person, society, corporation, institution, or association of persons in trust for or to be devoted to any charitable, benevolent, educational, or public purpose, by reason whereof any such person or corporation shall become beneficially entitled, in possession or expectancy to any such property or the income thereof, shall be exempted; provided, however, that such society, corporation, institution, or association be organized and existing under the laws of this state, or that the property transferred be limited for use within this state; provided further, that if such society, corporation, institution, or association be organized or existing under the laws of a territory or state of the United States, other than this state, or of a foreign state or country, all property transferred to said society, corporation, institution, or association shall be exempted, if at the date of decedent's death the said state or territory, or foreign state or country under the laws of which said society, corporation, institution, or association was organized or existing did not impose a legacy, or succession tax, or a death tax, of any character, in respect of property passing to or for the use of such society, corporation, institution, or association organized or existing under the laws of this state, or if at the date of decedent's death the laws of the state or territory or foreign state or country under which said society, corporation, institution, or association was organized or existing, contained a reciprocal provision under which such passing of property to said society, corporation, institution, or association organized or existing under the laws of another state or territory or foreign state or country shall be exempt from legacy or succession or death taxes of every character, providing such other state or territory, or foreign state or country, allowed a similar exemption to such a society, corporation, institution, or association organized or existing under the laws of another state or territory or foreign state or country.

*86 Me. 495; 88 Me. 587; 108 Me. 384; 114 Me. 235; 122 Me. 33; *130 Me. 123;
131 Me. *105, 211.

Sec. 3. Amount of tax on Class A. 1933, c. 148, § 3. 1941, c. 304, § 1. Property which shall so pass to or for the use of the following persons who shall be designated as Class A, to wit: husband, wife, lineal ancestor, lineal descendant, adopted child, adoptive parent, wife or widow of a son or husband or widower of a daughter of a decedent, shall be subject to a tax upon the value thereof, in excess of the exemption hereinafter provided, of 2% of such value in excess of said exemption as does not exceed \$50,000, of 3% of such value as exceeds said \$50,000 and does not exceed \$100,000, of 4% of such value as exceeds \$100,000 and does not exceed \$250,000, and of 6% of such value as exceeds \$250,000; the value exempt from taxation to or for the use of a husband, wife, father, mother, child, adopted child, or adoptive parent or child or children of a deceased child, by representation, shall in each case be \$10,000, and the value exempt from taxation to or for the use of any other person falling within said Class A, shall in each case be \$500.

86 Me. 495.

Sec. 4. Amount of tax on Class B. 1933, c. 148, § 4. 1941, c. 304, § 2. Property which shall so pass to or for the use of the following persons who

shall be designated as Class B, to wit: brother, half-brother, sister, half-sister, uncle, aunt, nephew, niece, grandnephew, grandniece, or cousin of a decedent, shall be subject to a tax upon the value thereof, in excess of an exemption of \$500, of 5% of such value in excess of said exemption as does not exceed \$25,000, of 9% of such value as exceeds \$25,000 and does not exceed \$100,000, of 10% of such value as exceeds \$100,000 and does not exceed \$250,000, and of 12% of such value as exceeds \$250,000.

86 Me. 495.

Sec. 5. Amount of tax on Class C. 1933, c. 148, § 5. 1941, c. 304, § 3. Property which shall so pass to or for the use of any person not falling within either of the classes hereinbefore set forth shall be subject to a tax upon the value thereof, in excess of an exemption of \$500, of 10% of such value in excess of said exemption as does not exceed \$50,000, of 12% of such value as exceeds \$50,000 and does not exceed \$100,000, of 14% of such value as exceeds \$100,000 and does not exceed \$250,000, and of 16% of such value as exceeds \$250,000.

86 Me. 495.

Sec. 6. All property to be treated as a single interest. 1933, c. 148, § 6. All property and interests therein which shall pass from a decedent to the same beneficiary by any one or more of the methods hereinbefore specified and all beneficial interests which shall accrue in the manner hereinbefore provided to such beneficiary on account of the death of such decedent shall be united and treated as a single interest for the purpose of determining the tax hereunder.

Sec. 7. Value of exempted property. 1933, c. 148, § 7. In non-resident estates the value of the property exempt from taxation under the provisions of the foregoing sections shall be only such proportion of the whole exempted amount as the estate of the non-resident taxable in this state bears to the total estate wherever situated.

Sec. 8. Taxation of bequests to executors or trustees. 1933, c. 148, § 8. Whenever a testator gives, bequeaths, or devises to his executors or trustees any property otherwise liable to the tax imposed by the provisions of sections 1 to 41, inclusive, in lieu of their compensation, the value thereof in excess of reasonable compensation, as determined by the probate court having jurisdiction of their accounts, shall be subject to the tax imposed by the provisions of sections 1 to 41, inclusive.

Sec. 9. Taxation of deeds etc. inter vivos. 1933, c. 148, § 9. Any deed, grant, or gift completed inter vivos, except in cases of bona fide purchase for full consideration in money or money's worth, made not more than 6 months prior to the death of the grantor or donor, shall prima facie, be deemed to have been made in contemplation of the death of the grantor or donor. Notwithstanding any provision of section 2, no deed, grant, or gift made more than 2 years prior to the death of the grantor or donor shall be subject to a tax hereunder unless made or intended to take effect in possession or enjoyment after the death of the grantor or donor.

Value for Taxation

Sec. 10. Tax or value as of testator's death. 1933, c. 148, § 10. Except as otherwise provided in section 13, the tax imposed by the provisions of sections 1 to 41, inclusive, shall be assessed on the value of the property at the time of the death of the decedent.

Sec. 11. Value of estates in remainder, how computed. 1933, c. 148, § 11. When any interest in property less than an estate in fee is devised or bequeathed to one or more beneficiaries with remainder to others or is created by gift or grant and the interest of one or more beneficiaries is subject to said tax, the value of the prior estate shall be determined by the Actuaries' Combined Experience Tables at 4% compound interest and a tax imposed at the rate or rates prescribed in sections 3, 4, and 5 for the class to which the devisee, legatee, donee, or grantee of such estate belongs, and a tax shall be imposed at the same time upon the remaining value of such property at the rate or rates prescribed in said sections for the class to which the devisee, legatee, donee, or grantee of such remainder belongs.

114 Me. 235.

Sec. 12. Settlement may be effected when computation is impossible. 1933, c. 148, § 12. In case it is impossible to compute the present value of any interest, the commissioner may, with the approval of the attorney-general, effect such settlement of the tax as he shall deem for the best interest of the state, and payment of the sum so agreed upon shall be full satisfaction of such tax. Executors, administrators, and trustees are authorized and empowered to compromise the amount of tax with the commissioner.

122 Me. 33.

Sec. 13. Proceedings when settlement cannot be effected. 1933, c. 148, § 13. In case it is impossible to compute the present value of any interest, and the tax thereon is not compromised as provided in section 12, said tax shall be assessed on the value of the property or interest therein coming to the beneficiary at the time when he becomes entitled to the same in possession or enjoyment and said tax shall be due and payable by the executor, administrator, or trustee in office when the right of possession to such interest accrues, or, if there is no such executor, administrator, or trustee, by the person so entitled thereto at the expiration of 6 months from the date when the right of possession accrued to the person so entitled.

In every such case the executor, administrator, trustee, or grantee, or any person interested in the devise, bequest, or grant shall give to the judge of the probate court having jurisdiction of the estate of the decedent a bond payable to him or his successor, sufficient to secure the payment of all taxes which may become due and interest thereon conditioned in substance that he will notify the commissioner when said taxes become due and payable and will pay the same with interest to the state.

122 Me. 33; 130 Me. 123.

Sec. 14. Executor etc. shall deduct tax before delivering property. 1933, c. 148, § 14. An executor, administrator, or trustee holding property subject to the tax imposed by the provisions of sections 1 to 41, inclusive, shall deduct the tax therefrom or collect it from the legatee or person entitled to said property; and he shall not deliver property or a specific legacy subject to said tax until he has collected the tax thereon. An executor or administrator shall collect inheritance taxes due upon real property passing by inheritance or will, which is subject to said tax from the heirs or devisees entitled thereto, and he may be authorized to sell said real property in the manner prescribed by section 23 if they refuse or neglect to pay said tax. An executor, administrator, or trustee upon payment of any tax assessed under the provisions of section 11 or compromised under the provisions of section 12 shall, unless otherwise provided

in the instrument creating the taxable interests, deduct the tax so paid from the whole property devised, bequeathed, or given.

Tax Payable

Sec. 15. When tax is payable. 1933, c. 148, § 15. Except as otherwise provided in section 13, the tax imposed by the provisions of sections 1 to 41, inclusive, shall be payable to the commissioner by the executor, administrator, or trustee at the expiration of 15 months from the date of death of the decedent, but if legacies or distributive shares are paid within said period, the tax thereon shall be paid at the same time; provided, however, that the commissioner may for cause extend the time of payment.

122 Me. 33.

Sec. 16. Interest charges on unpaid taxes. 1933, c. 148, § 16. If taxes imposed by the provisions of sections 1 to 41, inclusive, are not paid when due, interest at the rate of 10% annually shall be charged and collected thereon from the time the same became due.

Lien

Sec. 17. Property upon which taxes are unpaid charged with a lien. 1933, c. 148, § 17. Property of which a decedent dies seized or possessed, subject to taxes as aforesaid, in whatever form of investment it may happen to be, and all property acquired in substitution therefor, shall be charged with a lien for all taxes and interest thereon which are or may become due on such property; but said lien shall not attach to any personal property after the same has been sold or disposed of for value by the executor, administrator, or trustee, or to real estate after it has been conveyed by the executor, administrator, or trustee under license of the probate court. The lien charged by sections 1 to 41, inclusive, upon any real estate or separate parcel thereof may be discharged by the payment of all taxes and interest due and to become due upon said real estate or separate parcel and the cost of recording the certificate hereinafter mentioned, and upon payment thereof, the commissioner shall cause a certificate showing such payment to be recorded in the registry of deeds in each county where said real estate is located.

Payment

Sec. 18. Administrators etc. are liable for unpaid taxes. 1933, c. 148, § 18. Administrators, executors, trustees, or grantees or donees under conveyances or gifts made during the life of the grantor or donor, and persons to whom beneficial interests shall accrue by survivorship shall be liable for the taxes imposed by the provisions of sections 1 to 41, inclusive, with interest, as hereinbefore provided, until the same have been paid.

See c. 141, § 36, re receivers of estates of absentees to pay inheritance taxes.

Sec. 19. Provisions if legacy is payable out of realty. 1933, c. 148, § 19. If a legacy subject to said tax is charged upon or payable out of real estate, the heir or devisee, before paying said legacy, shall deduct said tax therefrom and pay it to the executor, administrator, or trustee, and the tax on said legacy shall remain a lien upon said real estate until it is paid. Payment thereof from the heir or devisee may be enforced by the executor, administrator, or trustee in the same manner as the payment of the legacy itself could be enforced.

Sec. 20. State may have action of debt against administrators etc.; bond required. 1933, c. 148, § 20; c. 293. An action of debt may be maintained in the name of the state against an administrator, executor, trustee, grantee, or donee for the recovery of all taxes imposed by the provisions of sections 1 to 41, inclusive, with interest thereon. Administrators and executors shall be liable to the state on their administration bonds for all taxes assessable under the provisions of said sections and interest thereon. Whenever an administration bond is waived by testamentary provision or by the assent of interested parties, the judge of probate, notwithstanding such waiver, before granting letters testamentary or of administration, may, and if in his judgment the amount of any bequest or distributive share of the estate may be subject to a tax as hereinbefore provided, shall require a bond payable to him or his successor sufficient to secure the payment of all inheritance taxes and interest conditioned in substance to pay all inheritance and estate taxes due to the state from the estate of the deceased with interest thereon. An action for the recovery of inheritance and estate taxes and interest shall lie on either of said bonds without the authority of the judge of probate.

Sec. 21. Administrator must be appointed within 6 months. 1933, c. 148, § 21. If, upon the decease of a person leaving an estate which may be liable to pay an inheritance tax, a will is not offered for probate, or an application for administration is not made within 6 months after the date of death, the probate court, upon application by the commissioner, shall appoint an administrator.

108 Me. 384.

Sec. 22. Refund of taxes paid. 1933, c. 148, § 23. Whenever a devisee, legatee, or heir refunds any portion of the property on which a tax has been paid by him or it is judicially determined that the whole or any part of such tax ought not to have been paid, said tax, or the due proportional part thereof, shall be refunded to him by the executor, administrator, or trustee.

Sec. 23. Sale of realty to pay taxes authorized. 1933, c. 148, § 24. The probate court may authorize executors, administrators, and trustees to sell the real estate of the deceased for the payment of the tax in the same manner as it may authorize the sale of real estate for the payment of debts.

See c. 150, § 2, re jurisdiction of judge of probate to grant license for sale of real estate.

Appraisal and Valuation

Sec. 24. Inventory of estate to be filed. 1933, c. 148, § 25. Every executor, administrator, or trustee shall within 3 months of the date of his appointment in addition to the inventory returned into the probate court file with the commissioner on blanks to be furnished by the commissioner, an inventory upon oath containing a complete list of all the property of the estate or trust within his knowledge except that the commissioner may, for cause, extend the time for filing said inventory. If he neglects or refuses to file said inventory, he shall be liable to a penalty of not more than \$500, and, on complaint of the commissioner, the judge of probate may remove him from his said trust.

Sec. 25. Accounts not to be allowed unless tax is paid; exceptions. 1933, c. 148, § 26. Except as otherwise provided no account of an executor, administrator, or trustee showing any payment except debts, funeral expenses, expenses of administration and legacies or distributive shares wholly exempt from inheritance taxes shall be allowed by the probate court unless with the con-

sent of the commissioner or unless such account shows, and the judge of said court finds, that all inheritance taxes already payable have been paid, and that all taxes which may become due have been secured as hereinbefore provided. The certificate of the commissioner and his receipt for the amount of the tax therein certified shall be conclusive as to the payment of the tax, to the extent of said certification.

The fact that an estate may later become subject to a tax shall not prevent the allowance of an account if a bond has been given as provided in section 13.

Sec. 26. Commissioner to determine value of property; appeal. 1933, c. 148, § 27. The value of the property upon which the tax is computed shall be determined by the commissioner and certified by him to the persons by whom the tax is payable, and such determination shall be final unless the value so determined shall be reduced by proceedings as hereinafter provided. At any time within 90 days after such certification any party interested in the succession, or the executor, administrator, or trustee may appeal from the decision of the commissioner to the probate court in the county where the estate is being administered as provided in section 30.

At any time within said 90 days the commissioner may, at the request or with the consent of the persons by whom the tax is payable, alter his determination of value. When an alteration is made, the commissioner shall notify the persons by whom the tax is payable and the appeal may be taken within 90 days thereafter.

Sec. 27. Commissioner to determine amount of tax; procedure. 1933, c. 148, § 28. 1939, c. 171. The commissioner shall determine the amount of tax due and payable upon any estate or part thereof and shall certify the amount so due and payable to the persons by whom the tax is payable. Such determination and certification may be made upon account of the tax payable upon the estate generally or upon account or in full for any part thereof or any interest therein. Payment of the amount so certified upon account shall be a discharge of the tax to the extent of said certification and upon subsequent determination and certification of the full amount of the tax payable upon the estate generally or upon any interest therein or part thereof, payment of the full amount of said tax shall, except as hereinafter provided, be a discharge of the tax. In determining the amount of any tax payable under the provisions of sections 1 to 41, inclusive, the commissioner shall not be required to consider any payments on account of debts, funeral expenses, or expenses of administration which have not been allowed by the probate court having jurisdiction of said estate. The amount paid on account of federal estate taxes shall be allowed as a deduction in resident or non-resident estates. If after determination and certification of the full amount of the tax upon an estate or any interest therein or part thereof the estate shall receive or become entitled to property in addition to that shown in the inventory or disclosed to the commissioner, the executor, administrator, trustee, or other fiduciary shall forthwith notify the commissioner who shall upon being thus or otherwise informed determine the amount of additional tax, if any, due and payable thereon and shall certify the said amount to the person by whom such tax is payable, which amount shall be due and payable 30 days from the date of the certification; provided that a fiduciary shall be personally liable to pay only so much of said additional tax as is computed on the additional property actually received by him and that a beneficiary receiving any part of such additional property shall be liable to pay so much of the tax thereon as is not chargeable as aforesaid to a fiduciary.

Sec. 28. Procedure if information is withheld. 1933, c. 148, § 29. Whenever an executor, administrator, trustee, or any person liable to taxation under the provisions of sections 1 to 41, inclusive, refuses or neglects to furnish to the commissioner any information which in the opinion of the commissioner is necessary to the proper computation of taxes payable by such executor, administrator, trustee, or person, after having been requested to do so, the commissioner shall certify such taxes at the highest rate at which they could in any event be computed.

Sec. 29. Registers of probate to send reports of appointments of administrators etc. to commissioner; penalty. 1933, c. 148, § 30. The registers of probate, in the several counties, shall send to the commissioner on forms to be prescribed and furnished by him, a record of every appointment of an executor, administrator, or trustee made in his court, immediately following any such appointment, and for failure to make any such report any register of probate shall be liable to a penalty of not more than \$50.

Sec. 30. Petition for abatement. 1933, c. 148, § 31. An executor, administrator, trustee, grantee, donee, survivor, or beneficiary aggrieved by the determination of the commissioner may within 90 days after the certification of any tax apply by a petition in equity to the probate court in the county where the estate is being administered for the abatement of the tax determined or any part thereof and if the court adjudges that the tax or any part thereof was wrongly determined, it shall order an abatement of such part thereof as was determined without authority of law. Questions of law may be reported by the probate court to the supreme judicial court sitting as a court of law. Upon a final decision ordering an abatement of any part of a tax determined, the determination of the commissioner shall be amended in accordance with the decree of the court.

Sec. 31. Inspection of documents filed with commissioner. 1933, c. 148, § 32. Papers, copies of papers, affidavits, statements, letters, and other information and evidence filed with the commissioner in connection with the assessment of taxes upon legacies and successions shall be open only to the inspection of persons charged or likely to become charged with the payment of taxes in the case in which such paper, copy, affidavit, statement, letter, or other information or evidence is filed, or their representatives, and to the commissioner, his deputies, assistants, and clerks and such other officers and persons as may, in the performance of their duties, have occasion to inspect the same for the purpose of assessing or collecting taxes.

Sec. 32. Commissioner to prepare forms, and make rules of procedure. 1933, c. 148, § 33. The commissioner shall prepare all blanks, forms, books, and papers necessary for or incident to the securing of full information with reference to all estates and may prescribe and establish such rules of practice and procedure, not inconsistent with law, as may be desirable in the economical and efficient administration of sections 1 to 41, inclusive.

Sec. 33. Commissioner may examine witnesses; attendance compelled. 1933, c. 148, § 34. The commissioner may summon and examine on oath, for the purpose of determining the taxability of any estate or of determining the value of such estate or assessing taxes thereon, any person having knowledge or means of knowledge as to any material fact touching the nature, valuation, or taxation of any property which may be subject to the provisions of sections 1 to 41,

inclusive, and may require the production of all books, papers, or other documents within the control of any witness.

Any examination on oath conducted by the commissioner may in his discretion be reduced to writing and false swearing therein shall be deemed perjury and be punishable as such.

Any justice of the superior court upon application of the commissioner may compel the attendance of witnesses and the giving of testimony before the commissioner in the same manner, to the same extent, and subject to the same penalties as if before said court.

Sec. 34. Authority of commissioner. 1933, c. 148, § 35. The commissioner shall collect all taxes, interest, and penalties provided by sections 1 to 41, inclusive, and is given authority to institute proceedings of any nature necessary or desirable for that purpose, including such proceedings as may be necessary or desirable for the removal of executors, administrators, and trustees who have failed to pay the taxes due from estates in their hands.

The commissioner is given authority to enforce the collection of any taxes secured by bond in an action of debt brought thereon regardless of the fact that some other official may be named as obligee therein.

126 Me. 614.

Estate Taxes

Sec. 35. Estate taxes, how imposed. 1933, c. 148, § 36. There shall be assessed by the commissioner, in addition to the inheritance tax hereinbefore provided, an estate tax upon all estates which are subject to taxation under the federal revenue act of 1926 as heretofore amended. Said tax is imposed upon the transfer of the estate of every person, who at the time of his death was a resident of this state. The amount of said tax shall be the amount by which 80% of the estate tax payable to the United States under the provisions of said federal revenue act shall exceed the aggregate amount of all estate, inheritance, legacy, and succession taxes actually paid to the several states of the United States in respect to any property owned by such decedent, or subject to such taxes as a part of or in connection with his estate.

Said tax shall be imposed also upon the transfer of all real property or tangible personal property situate within the state and passing by reason of the death of a person who was not a resident of this state at the time of his death. The amount of said tax shall be the amount by which 80% of the estate tax payable to the United States by reason of the transfer of such property exceeds the aggregate of the taxes payable thereon under the provisions of sections 3, 4, and 5.

Sec. 36. When payable. 1933, c. 148, § 37. Said estate tax shall become payable at the expiration of 15 months from the date of death of the decedent, and executors, administrators, trustees, grantees, donees, beneficiaries, and surviving joint owners shall be, and remain liable for the tax until it is paid. If the tax is not paid when due, interest at the rate of 10% annually shall be charged and collected from the time the same became due. The commissioner may, for cause, extend the time of payment.

Sec. 37. Intent of §§ 35-39, inclusive. 1933, c. 148, § 38. The intent and purpose of sections 35 to 39, inclusive, imposing an estate tax is to obtain for this state the benefit of the credit allowed under the provisions of Title III, section 301, subsection (b) of the federal revenue act of 1926 to the extent

that this state may be entitled by the provisions of sections 35 to 39, inclusive, by imposing an additional tax, and the same shall be liberally construed to effect this purpose. The commissioner may make such regulations relative to the assessment and the collection of the tax provided by said sections, not inconsistent with law, as may be necessary to carry out this intent.

Sec. 38. Exceptions. 1933, c. 148, § 39. The foregoing provisions shall become void and of no effect in respect to the estates of persons who die subsequent to the effective date of the repeal of Title III of said federal revenue act or of the provisions thereof providing for a credit of the taxes paid to the several states of the United States not exceeding 80% of the tax imposed by said Title III. If any portion of the foregoing provisions relating to said estate tax is held unconstitutional such decision shall not invalidate the portions unaffected thereby. In the event that any part of the federal revenue act or federal estate tax law, hereinbefore referred to, shall be declared to be in violation of the constitution of the United States, such declaration shall not be construed to affect the foregoing provisions relating to estate tax.

Sec. 39. Inheritance tax law applies to estate tax law. 1933, c. 148, § 40. All provisions of sections 1 to 41, inclusive, relating to inheritance taxes, shall apply to the sections relating to estate taxes wherever the same are applicable.

Definitions and Limitations

Sec. 40. Definitions. 1933, c. 148, § 41. Wherever used in sections 1 to 41, inclusive, the word "person" shall include bodies corporate; the word "property" shall include both real and personal estate, and any form of interest therein whatsoever, including annuities.

See c. 9, § 21, sub-§§ X, XIV, re rules of construction as to "land," "lands," "real estate," and "person."

Sec. 41. Limitations. 1933, c. 148, § 42. The provisions of sections 1 to 41, inclusive, in so far as they change the rate of tax applicable to property or interests therein, shall apply only to such property or interests therein passing on or after the 1st day of July, 1933, and, as to all property and interests therein passing prior to said date, the rate or rates previously applicable under the provisions of chapter 77 of the revised statutes of 1930 shall remain in force. Notwithstanding the rate of taxation applicable in any given case, all proceedings incident to the payment and collection of inheritance and estate taxes after July 1, 1933 shall be conducted under the terms hereof and full jurisdiction shall be vested in the commissioner rather than in the probate courts of the several counties of the state.

Provisions for Reciprocity in Collection of Death Taxes

Sec. 42. Proof of payment of death taxes to be filed in probate court. 1933, c. 147, § 1. At any time before the expiration of 15 months after the qualification in any probate court in this state of an executor of the will of or administrator of the estate of a non-resident decedent, the executor or administrator shall file with the court proof that all death taxes, together with interest or penalties thereon, due to the state of domicile of such decedent or to any political subdivision thereof, have been paid or secured, or that no such taxes, interest, or penalties are due, as the case may be.

Sec. 43. Form of proof; proceedings when proof is not filed. 1933, c. 147, § 2. The proof required by the provisions of section 42 may be in the form of a certificate issued by the official charged with the administration of the death tax laws of the state of domicile. If such proof is not filed as therein provided the register of probate shall forthwith notify by mail the official of the state of domicile so far as is known to him:

- I. The name, date of death, and last domicile of the decedent.
- II. The name and address of each executor or administrator.
- III. An estimate of the value of all the property of the estate.
- IV. The fact that the executor or administrator has not filed the proof required in section 42.

The register shall attach to such notice a plain copy of the will and codicils of such decedent, if he died testate, or if he died intestate, a list of his heirs and next of kin, so far as is known to such register. Within 60 days after the mailing of such notice, the official of the state of domicile may file with the probate court in this state a petition for an accounting in such estate. Said official shall, for the purposes of the provisions of sections 42 to 47, inclusive, be a party interested for the purpose of petitioning for such accounting; and if a petition be filed within said period of 60 days, the probate court shall decree an accounting, and upon such accounting being filed and approved shall decree the remission to the fiduciary appointed by the probate court of the state of domicile of the balance of the intangible personalty after the payment of creditors and expenses of administration in this state.

Sec. 44. Penalty for violation of §§ 42-43. 1933, c. 147, § 3. Unless the provisions of either section 42 or section 43 shall have been complied with, no executor or administrator shall be entitled to a final accounting or discharge in any probate court in this state.

Sec. 45. Reciprocal effect of §§ 42-47. 1933, c. 147, § 4. The provisions of sections 42 to 47, inclusive, shall apply to the estate of any non-resident decedent if the laws of the state of his domicile contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance of the collection of its death taxes, interest, and penalties from the estates of decedents dying domiciled in this state in cases where the estates of such decedents are being administered in such other state. The provisions of sections 42 to 47, inclusive, shall be liberally construed in order to insure that the state of domicile of any decedent shall receive any death taxes, together with interest and penalties thereon, due to it.

Sec. 46. Limitation of §§ 42-47. 1933, c. 147, § 5. Nothing in sections 42 to 47, inclusive, shall be construed to prevent a probate court from ordering the remission of any intangible personal property belonging to the estate of a non-resident decedent which is being administered in this state, and such probate court is authorized to order such remission whenever good cause is shown therefor.

Sec. 47. "State" defined. 1933, c. 147, § 6. For the purposes of sections 42 to 47, inclusive, the word "state" shall be construed to include any territory of the United States, the District of Columbia, and any foreign country.