

MAINE STATE LEGISLATURE

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(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1899

H. P. 1769

House of Representatives, January 25, 1980

Referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk of the House

Presented by Mr. Tierney of Lisbon.

Cosponsor: Mr. Brenerman of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Establish a Single Maine Estate Tax Based Upon a Percentage of the Federal Gross Estate.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 36 MRSA § 3402 is amended by adding at the end the following new sentence:

Chapters 551 through 573 do not apply to the estate of any person whose death occurs after December 31, 1981.

Sec. 2. 36 MRSA c. 575 is enacted to read:

CHAPTER 575

MAINE ESTATE TAX

§ 4061. Applicability of provisions

The provisions of this chapter apply to the estates of persons who die after December 31, 1981.

§ 4062. Definitions

When used in this chapter, unless the context clearly indicates otherwise, the following terms have the following meanings.

1. Code. "Code" means the Internal Revenue Code of the United States, as amended and in effect on January 1, 1982.

2. Federal gross estates. "Federal gross estate" means the federal gross estate defined in the code.

3. Maine gross estate. "Maine gross estate" means the federal gross estate, whether or not a federal estate tax return is required to be filed under the code, less the value of real property and tangible personal property having an actual situs outside the State of Maine.

4. Resident. "Resident" means a person domiciled in Maine at the time of his death.

5. Taxable estate. "Taxable estate" means the Maine gross estate less any exemptions and deductions allowable under this chapter.

§ 4063. Tax on estate of resident

1. Imposition of tax. A tax computed in accordance with the following table is hereby imposed on the transfer of the taxable estate of every deceased resident of Maine.

| FROM | TO | TAX | + | % | ON EXCESS OVER |
|-----------------------|----|-----------|---|----|-------------------|
| 0 - 10,000 | | 0 | | 7 | 0 |
| 10,000 - 20,000 | | 700 | | 8 | 10,000 |
| 20,000 - 40,000 | | 1,500 | | 9 | 20,000 |
| 40,000 - 60,000 | | 3,300 | | 10 | 40,000 |
| 60,000 - 80,000 | | 5,300 | | 11 | 60,000 |
| 80,000 - 100,000 | | 7,500 | | 12 | 80,000 |
| 100,000 - 150,000 | | 9,900 | | 13 | 100,000 |
| 150,000 - 250,000 | | 16,400 | | 14 | 150,000 |
| 250,000 - 500,000 | | 30,400 | | 15 | 250,000 |
| 500,000 - 750,000 | | 67,900 | | 16 | 500,000 |
| 750,000 - 1,000,000 | | 107,900 | | 17 | 750,000 |
| 1,000,000 - 1,250,000 | | 150,400 | | 18 | 1,000,000 |
| 1,250,000 - 1,500,000 | | 195,400 | | 19 | 1,250,000 |
| 1,500,000 - 2,000,000 | | 242,900 | | 20 | 1,500,000 |
| 2,000,000 - 2,500,000 | | 342,900 | | 21 | 2,000,000 |
| 2,500,000 - 3,000,000 | | 447,900 | | 22 | 2,500,000 |
| 3,000,000 - 3,500,000 | | 557,900 | | 23 | 3,000,000 |
| 3,500,000 - 4,000,000 | | 672,900 | | 24 | 3,500,000 |
| 4,000,000 - 4,500,000 | | 792,900 | | 25 | 4,000,000 |
| 4,500,000 - 5,000,000 | | 917,900 | | 26 | 4,500,000 |
| 5,000,000 - ----- | | 1,047,900 | | 27 | 5,000,000 |

2. Excess of credit added to tax. If the maximum credit for state death taxes allowable to the estate against the federal estate tax, as computed according to

the rate schedule found in the code, section 2011, based upon an amount equal to the Maine taxable estate, exceeds the tax imposed under subsection 1, the amount of the excess shall be added to the tax imposed under subsection 1.

§ 4064. Deductions

The deductions allowable under this chapter are:

1. Funeral expenses. Funeral expenses;
2. Claims against estate. Claims against the estate;
3. Indebtedness on property. Unpaid mortgages on, or any indebtedness in respect of, property where the value of the decedent's interest therein, undiminished by the mortgage or indebtedness, is included in the value of the Maine gross estate;
4. Federal estate taxes. Federal estates taxes paid;
5. Charitable transfers. Charitable transfers allowable under the code, section 2055; and
6. Marital deduction. The marital deduction allowable under the code, section 2056.

§ 4065. Taxation of nonresident estates

1. Tax imposed. A tax is hereby imposed on the transfer of a nonresident decedent's real property and tangible personal property having an actual situs in Maine, if the property would have been included in the Maine gross estate had the decedent been a resident.

2. Computation of tax. The tax imposed shall be an amount which bears the same ratio to the tax that would be due if the decedent had been a resident as the value of all real property and tangible personal property having an actual situs in Maine, the transfer of which is subject to tax under subsection 1 bears to the value of the decedent's Maine gross estate determined as if he had been a resident.

§ 4066. Valuation; gross estate

Property in the Maine gross estate shall be valued as of the date of death of the decedent; provided, that if an alternate valuation has been elected for purposes of the federal estate tax in accordance with the code, section 2032, the property in the Maine gross estate shall be valued as of the dates used for federal estate tax valuation purposes.

§ 4067. Executor's liability for tax

1. Payment of tax. The tax imposed by this chapter shall be paid by the executor. The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified and acting within Maine, then any person in actual or constructive possession of any property of the decedent. The probate court may authorize an executor to sell so

much of the property of the estate as will enable him to pay such tax in the same manner as it may authorize him to sell the property for the payment of debts.

2. **Certification of payment.** No final account of an executor of an estate may be allowed by the probate court unless and until the executor has filed in the probate court a certificate of the State Tax Assessor showing either that the amount of tax has been paid, that payment thereof has been secured as provided in section 4071, or that no tax is due.

§ 4068. **Discharge of executor's personal liability**

If the executor makes a written application, accompanied by a copy of the final determination of the federal estate tax liability, to the State Tax Assessor for determination of the amount of the tax and discharge for personal liability therefor, the State Tax Assessor, as soon as possible, and in any event, within one year after the making of the application, or if the application is made before the return is filed, then within one year after the return is filed, shall notify the executor of the amount of the tax. The executor, on payment of the amount of which he is notified, shall be discharged from personal liability for any deficiency in tax thereafter found to be due, and shall be entitled to a receipt or writing showing that discharge.

§ 4069. **Records; statements and returns; rules**

Every person liable for any tax imposed by this chapter, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules as the State Tax Assessor may prescribe.

§ 4070. **Tax due date; filing of return**

1. **Date due.** The tax imposed by this chapter is due 9 months after the date of the decedent's death. Interest shall accrue on any amount of tax not paid by that date.

2. **Return filed.** In all cases where the federal gross estate of the decedent exceeds \$175,000. the executor shall pay the tax and file a return within 9 months of the decedent's death. The return shall be in the form prescribed by the State Tax Assessor and it shall be accompanied by a copy of the federal return.

§ 4071. **Extension of due date for payment of tax**

The State Tax Assessor may extend the time for payment of the tax for a reasonable period of time not to exceed one year from the date fixed for payment. If an extension is granted he may require the taxpayer:

1. **Bond.** To give a bond to the Treasurer of State in such amount as the State Tax Assessor deems necessary; or

2. **Other security.** To deposit with the Treasurer of State bonds or other negotiable obligations of governmental entities with an aggregate value sufficient to adequately secure payment of the tax.

§ 4072. Extension of time for filing return

For good cause shown the State Tax Assessor may grant a reasonable extension of time for filing any return required by this chapter, provided that the taxpayer, on or before that date prescribed for payment of the tax, files a tentative return, in such form as the State Tax Assessor may require, and pays therewith the amount of tax reasonably estimated to be due.

§ 4073. Effect of federal determination

1. **Final federal determination.** A final federal determination as to any of the following issues shall also determine the same issue for purposes of the tax under this chapter:

- A. The inclusion in the federal gross estate of any item of property or interest in property;
- B. The allowance of any item claimed as a deduction from the federal gross estate;
- C. The value or amount of any such item; or
- D. The value of the federal gross estate generally.

2. **Meaning of final determination.** For purposes of this section a final federal determination means:

- A. A decision by the tax court of a judgment, decree or other order by any court of competent jurisdiction which has become final;
- B. A final disposition by the United States Secretary of the Treasury or his delegate of a claim for a refund. The disposition shall be deemed to have occurred:

- (1) As to items of the claim which are allowed, upon allowance of refund or upon disallowance of the claim by reason of offsetting items; and
- (2) As to items of the claim which are disallowed, or as to items applied by the United State Secretary of the Treasury or his delegate as an offset against the claim, upon expiration of the time for instituting suit for refund with respect to those items, unless suit is instituted before the expiration of such time, or upon filing with the State Tax Assessor a written statement that suit will not be instituted;

- C. A closing agreement made under the code, section 7021;
- D. An assessment pursuant to a waiver of restrictions on assessment, or a notification in writing issued by the United States Secretary of the Treasury or his delegate that the federal estate tax return has been accepted as filed, unless the executor notifies the State Tax Assessor that a claim for refund of federal estate taxes has been or will be filed; or
- E. Any assessment pursuant to a compromise entered into by the executor and the United States Secretary of the Treasury or his delegate.

3. Items entering computation of tax. If there has been a final federal determination with respect to a decedent's federal estate tax, any item entering into the computation of the tax shall be deemed to have been the subject of the final federal determination, whether or not specifically adjusted thereby.

STATEMENT OF FACT

This bill is an effort to provide a more efficient method of collection of so-called "death taxes". The bill would ease the administration of the current inheritance tax and estate tax. Such a piggyback estate tax adoption would cut the returns processed by 75%, thus reducing administrative costs.

This tax would be imposed upon the entire estate, which then would be liable for its payment. The relationship of the beneficiaries to the deceased is not considered, except where otherwise provided by federal law. This means that the computation of the tax is greatly simplified. Similarly, since the tax is levied along federal estate guidelines, it can be calculated as soon as the net taxable estate is determined. Further, this tax would reflect each estate's "ability to pay" because smaller estates, those under \$175,000, are exempted.

By adopting the rate schedule in section 4063, the amount of revenue will be approximately equal to the amount that is and would be accrued under the present inheritance and estate tax. Due to the 9-month filing provision of this estate tax as opposed to the 12-month provision of the present law, revenues accrued to the State will be accelerated. Thus, it is estimated that fiscal year 1983 revenues would have a one time increase of 2 1/2 million dollars.