

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 192**

H. P. 422

House of Representatives, January 30, 1945.

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

HARVEY R. PEASE, Clerk.

Presented by Mr. Haskell of Portland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-FIVE

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**AN ACT Providing for Equitable Apportionment of Estate Taxes and  
Collection and Payment Thereof.**

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

**R. S., c. 142, §§ 39-A—39-E, additional.** Chapter 142 of the revised statutes is hereby amended by adding thereto 5 new sections to be numbered 39-A to 39-E, inclusive, to read as follows :

**‘Sec. 39-A. Equitable apportionment and proration of estate taxes. Whenever it appears upon any accounting or in any appropriate action or proceeding that an executor, administrator, trustee or other person acting in a fiduciary capacity has paid or may be required to pay an estate tax levied or assessed under the provisions of this chapter, or under the provisions of any estate tax law of the United States heretofore or hereafter enacted, upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law, the amount of the tax so paid or payable, except as otherwise directed or provided in the decedent’s will, and, where all or part of a fund created by written instrument executed inter vivos is included in the gross estate, except as otherwise provided in such written instrument or amendment thereof, shall be equitably apportioned and prorated among the persons interested in the estate. Such apportionment and proration shall be made in**

the proportion as near as may be that the value of the property, interest or benefit of each such person bears to the total value of the property, interests and benefits received by all such persons interested in the estate; provided that it shall accord with applicable estate tax law of the United States where such laws specify with respect to an apportionment. In making such apportionment and proration, allowance shall be made for any exemptions granted by the act imposing the tax and for any deductions allowed by such act, for the purpose of arriving at the value of the net estate; and in cases where a trust is created or other provision made whereby any person is given an interest in income or an estate for years, or for life, or other temporary interest in any property or fund, the tax on both such temporary interest and on the remainder thereafter shall be charged against and be paid out of the corpus of such property or fund without apportionment between remainders and temporary estates.'

'Sec. 39-B. "Persons interested in the estate," definition. For the purposes of sections 39-A to 39-E, inclusive, the term "persons interested in the estate" shall, with respect to both state and federal taxes, include all persons who may be entitled to receive or who have received any property or interest which is so required to be included in the gross estate of a decedent, or any benefit whatsoever with respect to any such property or interest, whether under a will or intestacy, or by reason of any transfer, trust, estate, interest, right, power, relinquishment of power, or otherwise, taxable under any of the aforementioned laws.'

'Sec. 39-C. Executors and administrators, right to recover taxes. In all cases in which any property required to be included in the gross estate referred to in section 39-A does not come into the possession of the executor or administrator as such, he shall, in the case of a trust involving temporary interests as described in section 39-A, be entitled to recover from the fiduciary in possession of the corpus of such trust, and in all other cases from the persons interested in the estate, the proportionate amount of such tax payable by such fiduciary or persons with which they are chargeable under the provisions of section 39-A.'

'Sec. 39-D. Contributions. Any person who shall have paid more than the proportionate amount of the tax apportionable to him under the provisions of sections 39-A to 39-E, inclusive, on any property or interest passing to him, or in his possession, shall be entitled to a just and equitable contribution from those who shall not have paid the full amount of the tax apportionable to them respectively.'

'Sec. 39-E. Commissioner, powers; appeal. The inheritance tax com-

missioner shall have jurisdiction to hear and determine all questions arising under the provisions of sections 39-A to 39-E, inclusive, and to make apportionments and prorations, determine the amounts thereof and of reimbursements, contributions and other payments therein provided for, and shall certify the amounts payable, subject to appeal as in other cases under the inheritance tax laws.'