

# MAINE STATE LEGISLATURE

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# N I N E T Y - T H I R D   L E G I S L A T U R E

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**Legislative Document**

**No. 1010**

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H. P. 1391

House of Representatives, February 19, 1947

Transmitted by revisor of statutes pursuant to joint order.

Referred to the 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-SEVEN

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### **AN ACT Relating to Inheritance and Estate Taxes.**

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

**Sec. 1. R. S., c. 17, § 6, amended.** The last sentence of section 6 of chapter 17 of the revised statutes is hereby amended to read as follows:

‘The attorney-general shall also instruct one of his assistant attorneys-general to ~~devote his entire time to assist the state tax assessor in~~ the enforcement of the inheritance tax law, except that in the absence or inability to act of the attorney-general and deputy attorney-general ~~he~~ **such assistant attorney-general** may perform all the duties required of the attorney-general by chapters 49 and 50, and the salary and expenses of such assistant attorney-general shall be paid from the appropriation for salaries and clerk hire of said department.’

**Sec. 2. R. S., c. 142, § 1, amended.** Section 1 of chapter 142 of the revised statutes is hereby amended to read as follows:

**‘Sec. 1. State tax assessor to enforce and administer inheritance and succession tax laws.** 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"~~ state tax assessor.

In the absence or disability of the ~~commissioner~~ state tax assessor, the ~~attorney general or his deputy may designate an acting governor and council may, if deemed feasible, authorize the commissioner who shall be vested with of finance to exercise all the powers of and shall perform all the duties of the commissioner~~ state tax assessor with respect to such taxes during such absence or disability.'

**Sec. 3. R. S., c. 142, § 12, amended.** Section 12 of chapter 142 of the revised statutes is hereby amended to read as follows:

'**Sec. 12. Settlement may be effected when computation is impossible.** In case it is impossible to compute the present value of any interest, the ~~commissioner~~ state tax assessor 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~~ state tax assessor.'

**Sec. 4. R. S., c. 142, § 13, amended.** The last paragraph of section 13 of chapter 142 of the revised statutes is hereby amended to read as follows:

'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~~ state tax assessor when said taxes become due and payable and will pay the same with interest to the state.'

**Sec. 5. R. S., c. 142, § 15, amended.** Section 15 of chapter 142 of the revised statutes is hereby amended to read as follows:

'**Sec. 15. When tax is payable.** 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~~ state tax assessor 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 with-

in said period, the tax thereon shall be paid at the same time; provided, however, that the ~~commissioner~~ **state tax assessor** may for cause extend the time of payment.'

**Sec. 6. R. S., c. 142, § 17, amended.** The last sentence of section 17 of chapter 142 of the revised statutes is hereby amended to read as follows:

'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~~ **state tax assessor** shall cause a certificate showing such payment to be recorded in the registry of deeds in each county where said real estate is located.'

**Sec. 7. R. S., c. 142, § 21, amended.** Section 21 of chapter 142 of the revised statutes is hereby amended to read as follows:

'**Sec. 21. Administrator must be appointed within 6 months.** 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~~ **state tax assessor**, shall appoint an administrator.'

**Sec. 8. R. S., c. 142, § 24, amended.** Section 24 of chapter 142 of the revised statutes is hereby amended to read as follows:

'**Sec. 24. Inventory of estate to be filed.** 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~~ **state tax assessor** on blanks to be furnished by the ~~commissioner~~ **state tax assessor**, an inventory upon oath containing a complete list of all the property of the estate or trust within his knowledge except that the ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor**, the judge of probate may remove him from his said trust.'

**Sec. 9. R. S., c. 142, § 25, amended.** Section 25 of chapter 142 of the revised statutes is hereby amended to read as follows:

'**Sec. 25. Accounts not to be allowed unless tax is paid; exceptions.** 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 consent of the ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor** 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. 10. R. S., c. 142, § 26, amended.** Section 26 of chapter 142 of the revised statutes is hereby amended to read as follows:

**'Sec. 26. State tax assessor to determine value of property; appeal.** The value of the property upon which the tax is computed shall be determined by the ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor** 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~~ **state tax assessor** 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~~ **state tax assessor** shall notify the persons by whom the tax is payable and the appeal may be taken within 90 days thereafter.'

**Sec. 11. R. S., c. 142, § 27, amended.** Section 27 of chapter 142 of the revised statutes is hereby amended to read as follows:

**'Sec. 27. State tax assessor to determine amount of tax; procedure.** The ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor** 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~~ **state tax assessor**, the executor, administrator, trustee, or other fiduciary shall forthwith notify the ~~commissioner~~ **state tax assessor** 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. 12. R. S., c. 142, § 28, amended.** Section 28 of chapter 142 of the revised statutes is hereby amended to read as follows:

**'Sec. 28. Procedure if information is withheld.** Whenever an executor, administrator, trustee, or any person liable to taxation under the provisions of section 1 to 41, inclusive, refuses or neglects to furnish to the ~~commissioner~~ **state tax assessor** any information which in the opinion of the ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor** shall certify such taxes at the highest rate at which they could in any event be computed.'

**Sec. 13. R. S., c. 142, § 29, amended.** Section 29 of chapter 142 of the revised statutes is hereby amended to read as follows:

**Sec. 29. Registers of probate to send reports of appointments of administrators etc. to state tax assessor; penalty.** The registers of probate, in the several counties, shall send to the ~~commissioner~~ **state tax assessor** 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. 14. R. S., c. 142, § 30, amended.** Section 30 of chapter 142 of the revised statutes is hereby amended to read as follows:

**Sec. 30. Petition for abatement.** An executor, administrator, trustee, grantee, donee, survivor, or beneficiary aggrieved by the determination of the ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor** shall be amended in accordance with the decree of the court.'

**Sec. 15. R. S., c. 142, § 31, amended.** Section 31 of chapter 142 of the revised statutes is hereby amended to read as follows:

**Sec. 31. Inspection of documents filed with state tax assessor.** Papers, copies of papers, affidavits, statements, letters, and other information and evidence filed with the ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor**, 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. 16. R. S., c. 142, § 32, amended.** Section 32 of chapter 142 of the revised statutes is hereby amended to read as follows:

**'Sec. 32. State tax assessor to prepare forms, and make rules of procedure.** The ~~commissioner~~ **state tax assessor** 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. 17. R. S., c. 142, § 33, amended.** Section 33 of chapter 142 of the revised statutes is hereby amended to read as follows:

**'Sec. 33. State tax assessor may examine witnesses; attendance compelled.** The ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor** 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~~ **state tax assessor** may compel the attendance of witnesses and the giving of testimony before the ~~commissioner~~ **state tax assessor** in the same manner, to the same extent, and subject to the same penalties as if before said court.'

**Sec. 18. R. S., c. 142, § 34, amended.** Section 34 of chapter 142 of the revised statutes is hereby amended to read as follows:

**'Sec. 34. Authority of state tax assessor.** The ~~commissioner~~ **state tax assessor** 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~~ **state tax assessor** is given authority to enforce the collection of any taxes secured by bond in an action of debt brought there-



on regardless of the fact that some other official may be named as obligee therein.

**The state tax assessor shall pay over all receipts from such taxes, interest and penalties to the treasurer of state daily.'**

**Sec. 19. R. S., c. 142, § 35, amended.** The 1st sentence of the 1st paragraph of section 35 of chapter 142 of the revised statutes is hereby amended to read as follows:

'There shall be assessed by the ~~commissioner~~ **state tax assessor**, 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.'

**Sec. 20. R. S., c. 142, § 36, amended.** Section 36 of chapter 142 of the revised statutes is hereby amended to read as follows:

**'Sec. 36. When payable.** 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~~ **state tax assessor** may, for cause, extend the time of payment. **The state tax assessor shall pay over all receipts from such taxes and interest to the treasurer of state daily.'**

**Sec. 21. R. S., c. 142, § 37, amended.** The last sentence of section 37 of chapter 142 of the revised statutes is hereby amended to read as follows:

'The ~~commissioner~~ **state tax assessor** 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. 22. R. S., c. 142, § 39-E, amended.** Section 39-E of chapter 142 of the revised statutes, as enacted by chapter 269 of the public laws of 1945, is hereby amended to read as follows:

**'Sec. 39-E. State tax assessor, powers; appeal.** The ~~inheritance tax commissioner~~ **state tax assessor** 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.'

**Sec. 23. R. S., c. 142, § 41, amended.** The last sentence of section 41 of chapter 142 of the revised statutes is hereby amended to read as follows :

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~~ **state tax assessor** rather than in the probate courts of the several counties of the state.'