

# MAINE STATE LEGISLATURE

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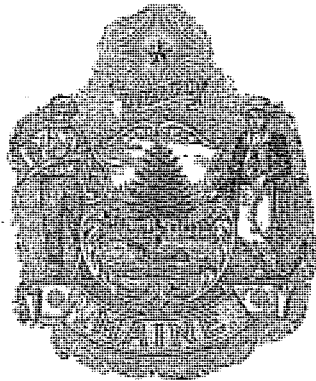
SIXTH REVISION

THE  
REVISED STATUTES

OF THE

STATE OF MAINE

PASSED SEPTEMBER 29, 1916, AND TAKING  
EFFECT JANUARY 1, 1917



By the Authority of the Legislature

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is discharged by the complainant or the supreme judicial court; and he is also liable to any injured party in an action on the case, for all the damages, expenses and charges arising from such refusal.

Note. Executors, administrators or other persons authorized to sell goods, chattels or land, by order of any court or judge of probate, may do so without license from municipal officers, c. 41, § 8.

No trust or banking company shall act as administrator, c. 52, § 84.

Compensation of executors and administrators, c. 67, § 43.

Executors and administrators to pay amount of stenographer's fees, c. 67, § 46.

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## CHAPTER 69.

### Succession Taxes.

- Sections 1-13 Assessment and Collection.  
 Sections 14-21 Duties of Executors and Administrators.  
 Sections 22-26 Estates of Non-residents.  
 Sections 27-29 General Provisions.

#### Assessment and Collection.

**Sec. 1.** Property subject to inheritance tax; exemption of personal property of non-residents. R. S. c. 8, § 69. 1909, c. 186. 1911, c. 163, § 1. 1913, c. 190, § 3. All property within the jurisdiction of this state, and any interest therein, whether belonging to inhabitants of this state or not, and whether tangible or intangible, which shall pass by will, by the intestate laws of this state, by allowance of a judge of probate to a widow or child, by deed, grant, sale or gift, except in cases of a bona fide purchase for full consideration in money or money's worth, and except as herein otherwise provided, made or intended to take effect in possession or enjoyment after the death of the grantor, to any person in trust or otherwise, except to or for the use of any educational, charitable, religious or benevolent institution in this state, the property of which is by law exempt from taxation, shall be subject to an inheritance tax for the use of the state as hereinafter provided. Property which shall so pass to or for the use of (Class A) the husband, wife, lineal ancestor, lineal descendant, adopted child, the adoptive parent, the wife or widow of a son, or the husband of a daughter of a decedent, shall be subject to a tax upon the value of each bequest, devise or distributive share, in excess of the exemption hereinafter provided, of one per cent if such value does not exceed fifty thousand dollars, one and one-half per cent if such value exceeds fifty thousand dollars and does not exceed one hundred thousand dollars, and two per cent if such value exceeds one hundred thousand dollars; the value exempt from taxation to or for the use of a husband, wife, father, mother, child, adopted child or adoptive parent shall in each case be ten thousand dollars, and the value exempt from taxation to or for the use of any other member of (Class A) shall in each case be five hundred dollars. Property which shall so pass to or for the use of (Class B) a brother, sister, uncle, aunt, nephew, niece or cousin of a decedent, shall be subject to a tax upon the value of each bequest, devise or distributive share in excess of five hundred dollars, and

the tax of this class shall be four per cent of its value for the use of the state if such value does not exceed fifty thousand dollars, four and one-half per cent if its value exceeds fifty thousand dollars and does not exceed one hundred thousand dollars and five per cent if its value exceeds one hundred thousand dollars. Property which shall pass to or for the use of any others than members of Class A, Class B and the institutions excepted in the first sentence of this section, shall be subject to a tax upon the value of each bequest, devise or distributive share in excess of five hundred dollars, and the tax of this class shall be five per cent of its value for the use of the state if such value does not exceed fifty thousand dollars, six per cent if its value exceeds fifty thousand and does not exceed one hundred thousand dollars and seven per cent if its value exceeds one hundred thousand dollars. Administrators, executors and trustees, and any grantees under such conveyances made during the grantor's life shall be liable for such taxes, with interest, until the same have been paid. All personal property or any interest therein belonging to any deceased resident of another state, shall be exempt from the payment of any inheritance tax under this section, provided said other state assesses no inheritance tax upon the personal property of decedents who were resident in this state.

86 Me. 495; 88 Me. 587; 108 Me. 389.

**Sec. 2. Taxation of life estates and remainders; when impossible to compute present value of interest, attorney-general may settle tax.** R. S. c. 8, § 70. 1909, c. 186. 1913, c. 128. Whenever property shall descend by devise, descent, bequest or grant to a person for life or for a term of years and the remainder to another, except to or for the use of any educational, charitable, religious or benevolent institution in this state, the value of the prior estate shall be determined by the Actuaries' Combined Experience Tables at four per cent compound interest and a tax imposed at the rate prescribed in the preceding section for the class to which the devisee, legatee 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 prescribed in said section for the class to which the devisee, legatee or grantee of such remainder belongs, subject to the exemptions provided in the preceding section.

In every case in which it is impossible to compute the present value of any interest, by reason of such interest being conditioned upon the happening of a contingency or dependent upon the exercise of a discretion or subject to a power of appointment or otherwise, the attorney-general may 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 a full satisfaction of such tax.

**Sec. 3. Excess of reasonable compensation to executors shall be taxed.** R. S. c. 8, § 71. Whenever a decedent appoints one or more executors or trustees, and in lieu of their allowance makes a bequest or devise of property to them which would otherwise be liable to said tax, or appoints them his residuary legatees, and said bequests, devises, or residuary legacies exceed a reasonable compensation for their services, such excess shall be liable to such tax, and the court of probate having jurisdiction of their accounts, shall determine the amount of such reasonable compensation.

**Sec. 4.** Property of a deceased resident of this state subject to taxation in another state, not liable to taxation in this state. 1909, c. 187, § 7. 1913, c. 190, § 1. Property belonging to a deceased resident of this state which shall be distributed by order of the probate court subsequent to the second day of July, nineteen hundred and nine, and which is not therein at the time of his death, shall not be taxable under the provisions of this chapter if legally subject in another state or country to a tax of like character and amount to that imposed by section one, and if such tax be actually paid or guaranteed or secured in accordance with the law of such other state or country; if legally subject in another state or country to a tax of like character, but of less amount than that imposed by section one and such tax be actually paid, guaranteed or secured as aforesaid, such property shall be taxable under the provisions of section one to the extent of the difference between the tax thus actually paid, guaranteed or secured, and the amount for which such property would otherwise be liable under this chapter.

**Sec. 5.** Courts of probate shall have jurisdiction to determine all questions relating to tax. R. S. c. 8, § 83. 1909, c. 187, § 5. The court of probate, having either principal or ancillary jurisdiction of the settlement of the estate of the decedent, shall have jurisdiction to hear and determine all questions in relation to the taxes imposed by this chapter that may arise hereunder affecting any devise, legacy or inheritance, subject to appeal as in other cases, and the attorney-general shall represent the interests of the state in any such proceedings. The judge of probate, having jurisdiction as aforesaid, shall fix the time and place for hearing and determining such questions and shall give public notice thereof and personal notice to the executor, administrator or trustee. Appeals in behalf of the estate shall be taken in the name of the executor, administrator or trustee and service upon the attorney-general shall be sufficient. When appeals are taken by the state, service shall be made upon the executor, administrator or trustee.

86 Me. 507.

**Sec. 6.** Registers of probate shall annually deliver to attorney-general list of estates appearing to be liable to inheritance tax; duties of attorney-general; costs. 1905, c. 124. 1909, c. 187, § 1. The registers of probate in the several counties shall deliver to the attorney-general, on or before the first day of June in each year, a list of all estates in which it appears from the record that some part of said estate may be liable to an inheritance tax, and in which a will has been offered for probate or administration granted for more than one year prior to the time of filing such list, and in which no inheritance tax has been assessed or paid. Said list shall contain the name of the deceased, the date of the administration granted, and the name and residence of the administrator or executor. The attorney-general shall promptly investigate all cases so reported, by notifying the executor, administrator, trustee, heir or devisee, and in such other manner as he may determine, and if it appears to him that in any such case an inheritance tax is due and has not been paid to the state, he shall, unless said tax is paid, within thirty days after notice from him to the executor, administrator, trustee, heir or devisee that the same is due, cite

the executor, administrator, trustee, heir or devisee, whose duty it is to pay said tax, before the proper probate court in such manner as is provided for the citation of trust officers in probate proceedings, and shall take all other action necessary to secure the payment of said tax. In such proceedings the attorney-general shall recover costs to be fixed and determined by the judge of probate in his discretion, which costs may be retained by said attorney-general for his own use and shall be additional to any salary allowed to him by law.

108 Me. 389.

**Sec. 7. Copy of inventory of any estate subject to tax, shall be furnished attorney-general.** R. S. c. 8, § 79. 1909, c. 187, § 3. A copy of the inventory of every estate, any part of which may be subject to a tax under the provisions of section one, or if the same can be conveniently separated, then a copy of such part of such inventory with the appraisal thereof, shall be sent by mail by the register of the court of probate in which such inventory is filed, to the attorney-general within ten days after the same is filed. The fees for such copy shall be paid by the executor, administrator or trustee, and allowed in his account.

**Sec. 8. Valuation of property.** R. S. c. 8, § 82. 1909, c. 187, § 4. The value of such property as may be subject to said tax shall be its actual market value as found by the judge of probate, after public notice or personal notice to the attorney-general and all persons interested in the succession to said property, or the attorney-general or any of said persons interested may apply to the judge of probate having jurisdiction of the estate and on such application the judge shall appoint three disinterested persons, who, being first sworn, shall view and appraise such property at its actual market value for the purposes of said tax, and shall make return thereof to said probate court, which return may be accepted by said court in the same manner as the original inventory of such estate is accepted, and if so accepted it shall be binding upon the person by whom such tax is to be paid, and upon the state. And the fees of the appraisers shall be fixed by the judge of probate and paid by the executor, administrator or trustee.

86 Me. 507.

**Sec. 9. When and to whom taxes shall be paid; duty of personal representative of deceased; register of probate shall send copy of petition to attorney-general.** R. S. c. 8, § 72. 1909, c. 187, § 2. 1911, c. 163, § 2. All taxes imposed by section one upon the estates of deceased residents of this state shall be payable to the treasurer of state, and all taxes imposed by said section one upon the estates of non-resident decedents, to the attorney-general, by the executors, administrators or trustees at the expiration of two years after the granting of letters testamentary or of administration; but if legacies or distributive shares are paid within two years, the tax thereon shall be payable at the same time; and if the same are not so paid, interest at the rate of six per cent a year shall be charged and collected from the time the same became payable; but no such tax upon estates of residents or inhabitants of this state shall be accepted except upon presentation of a certificate from a probate court showing the amount of such tax due. It shall be the duty of the personal representative of said de-

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ceased to petition the probate court having jurisdiction to assess such taxes before the payment of any such legacies or distributive shares, and before the expiration of two years after the granting of letters aforesaid. The register of probate shall send by mail, a copy of such petition to the attorney-general at least seven days before the hearing thereon unless the attorney-general in writing waives the same.

**Sec. 10. Petition of attorney-general; lien on real estate.** 1911, c. 163, § 2. If no such petition is filed within the time limited, the attorney-general may file a similar petition, of which, unless notice is waived, at least fourteen days' notice shall be given such personal representative or his agent. In either case the attorney-general may appear and be heard upon the assessment of such tax and an appeal may be had from the decree of the judge of probate by either party. Real estate of which the decedent died seized or possessed, subject to taxes as aforesaid, shall be charged with a lien for all such taxes and interest, which lien may be discharged by the payment of all taxes due and to become due upon said real estate or separate parcel thereof, or by an order or decree of the probate court discharging said lien, granted upon the deposit with said court of a sum of money or a bond, sufficient to secure to the state the payment of any tax due or to become due on said real estate. Orders or decrees discharging such lien may be recorded in the registry of deeds in the county where said real estate is located.

**Sec. 11. Failure to pay tax renders administrator liable; action of debt may be maintained for tax.** R. S. c. 8, § 73. After failure to pay such tax, as provided in section nine, such an administrator, executor or trustee is liable to the state on his administration bond for such tax and interest, and an action shall lie thereon without the authority of the judge of probate; or an action of debt may be maintained in the name of the state against any such administrator, executor or trustee, or any such grantee, for such tax and interest. But if such administrator, executor or trustee, after being duly cited therefor, refuses or neglects to return his inventory or to settle an account, by reason whereof the judge of probate cannot determine the amount of such tax, such administrator, executor or trustee shall be liable to the state on his administration bond for all damages occasioned thereby.

**Sec. 12. Proceedings when estate liable to pay inheritance tax is not before court.** 1905, c. 124. 1909, c. 187, § 1. If, upon the decease of a person leaving an estate liable to pay an inheritance tax, a will disposing of such estate is not offered for probate, or an application for administration made within six months after such decease, the proper probate court upon application by the attorney-general, shall appoint an administrator for such estate; whenever such a case is brought to the attention of the attorney-general, he shall petition for administration on such estate and the judge may appoint such attorney-general or other suitable person as such administrator; the attorney-general shall be entitled to costs as in other probate proceedings.

**Sec. 13. Proceeding for recovery of taxes by attorney-general. 1911, c. 163, § 4.** The attorney-general shall promptly commence proceedings for the recovery of any of said taxes within six months after the same become payable; and shall commence the same when the judge of a probate court certifies to him that the final account of an executor, administrator or trustee has been filed in such court, and that the settlement of the estate is delayed because of the non-payment of said tax. The judge of the probate court shall so certify upon the application of any heir, legatee or other person interested therein, and may extend the time of payment of said tax whenever the circumstances of the case require. All moneys received by the attorney-general as taxes collected under the provisions of this chapter shall be by him forthwith paid to the treasurer of state.

#### Duties of Executors and Administrators.

**Sec. 14. Property shall not be delivered to legatee until tax is paid. R. S. c. 8, § 74.** Any administrator, executor or trustee, having in charge or trust any property subject to such tax, shall deduct the tax therefrom, or shall collect the tax thereon, and interest chargeable under section nine from the legatee or person entitled to said property, and he shall not deliver any specific legacy or property subject to said tax to any person until he has collected the tax thereon.

**Sec. 15. All taxes payable upon real estate shall remain a charge thereon until paid. R. S. c. 8, § 75.** Whenever any legacies subject to said tax shall be charged upon or payable out of any real estate, the heir or devisee, before paying the same, shall deduct said tax therefrom and pay it to the executor, administrator or trustee, and the same shall remain a charge upon said real estate until it is paid; and payment thereof shall be enforced by the executor, administrator or trustee, in the same manner as the payment of the legacy itself could be enforced.

**Sec. 16. When legacy is for a limited period, executor shall retain tax on whole amount. R. S. c. 8, § 76.** If any such legacy be given in money to any person for a limited period, such administrator, executor or trustee shall retain the tax on the whole amount; but if it be not in money, he shall make an application to the judge of probate having jurisdiction of his accounts to make an apportionment, if the case requires it, of the sum to be paid into his hands by such legatee on account of said tax and for such further order as the case may require.

**Sec. 17. Sale of real estate to pay tax. R. S. c. 8, § 77.** Administrators, executors and trustees may sell so much of the estate of the deceased as will enable them to pay said tax in the same manner as they may be empowered to do for the payment of his debts.

See c. 76, § 1.

**Sec. 18. Notice to attorney-general of descent of real estate. R. S. c. 8, § 80.** Whenever any of the real estate of a decedent shall so pass to another person as to become subject to said tax, the executor, administrator or trustee of the decedent shall inform the attorney-general thereof within six months after he has assumed the duties of his trust, or if the fact is



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not known to him within that time, then within one month after it does become so known to him.

**Sec. 19.** Whenever any property shall be refunded by legatee, tax shall be paid back. R. S. c. 8, § 81. Whenever for any reason the devisee, legatee or heir who has paid any such tax shall refund any portion of the property on which it was paid, or it shall be judicially determined that the whole or any part of such tax ought not to have been paid, said tax, or the due proportional part of said tax, shall be paid back to him by the executor, administrator or trustee.

**Sec. 20.** Penalty for neglect or refusal to file inventory of estate. 1909, c. 187, § 7. 1911, c. 163, § 3. If any executor, administrator or trustee neglects or refuses to file an inventory of the estate under his charge within three months from the date of the warrant of appraisal, unless such time be extended by the judge of probate, he shall be cited to file such inventory by the judge of probate and if he neglects or refuses to file such inventory within sixty days thereafter, he shall be liable to a penalty of not more than five hundred dollars which shall be recovered in an action of debt by the attorney-general for the use of the state, and the register of probate shall notify the attorney-general of the failure of any executor, administrator or trustee to file an inventory as above provided.

**Sec. 21.** No final settlement of accounts shall be allowed, until all taxes have been paid. R. S. c. 8, § 78. No final settlement of the account of any executor, administrator or trustee shall be accepted or allowed by any judge of probate unless it shall show, on oath or affirmation of the accountant, and the judge of said court shall find, that all taxes, imposed by the provisions of section one, upon any property or interest therein belonging to the estate to be settled by said account, shall have been paid, and the receipt of the treasurer of state for such tax shall be the proper voucher for such payment.

#### Estates of Non-Residents.

**Sec. 22.** Property of non-resident decedent, how taxed; when there is more than one heir, proportion to be received by each; exemption. 1909, c. 187, § 7. 1913, c. 190, § 1. Property of a non-resident decedent which is within the jurisdiction of the state at the time of his death if subject to a tax by the law of the state or country of his residence, of like character with that imposed by this chapter, shall be subject only to such portion of the tax imposed hereunder, if any, as may be in excess of such tax imposed by the laws of such state or country. And where said non-resident decedent has more than one heir or his property is divided among more than one legatee, each heir, or in case of a will, each legatee shall be held to receive such proportion of the property within the jurisdiction of this state as the amount of all property received by him as such heir or legatee bears to all the property of which said decedent died possessed. The amount of property of the estate of a non-resident which shall be exempt from the payment of an inheritance tax under section one shall be only such proportion of the whole exempted amount which is provided therein for the estates of resident decedents, as the amount of the estate of the non-resident actually or constructively in this state bears to the total value of the non-resident decedent's estate wherever situated.

**Sec. 23.** When estate consists of interstate railroad, telegraph or telephone shares. 1911, c. 163, § 4. When the personal estate passing from any person, not an inhabitant or resident of this state, as provided in section one, shall consist in whole or in part of shares of any railroad, or street railroad company or telegraph or telephone company incorporated under the laws of this state and also of some other state or country, so much only of each share as is proportional to the part of such company's lines lying within this state shall be considered as property of such person within the jurisdiction of this state for the purposes of this chapter.

**Sec. 24.** When no tax shall be assessed upon stock, bonds and evidences of debt of Maine corporation; certificate of attorney-general filed with secretary of state. 1911, c. 163, § 4. When the personal estate passing from any deceased person not an inhabitant or resident of this state, as provided in section one, shall consist of the stocks, bonds or other debt or certificate of indebtedness of any corporation organized under the laws of this state, no inheritance tax shall be assessed upon the same, unless said corporation shall at the time of such decease have tangible property within the state exceeding one thousand dollars in value. The attorney-general, upon satisfactory evidence, shall file a certificate in the office of the secretary of state that any such corporation has not tangible property within the state exceeding one thousand dollars in value. Such certificate may at any time after notice and upon satisfactory evidence, be revoked. A copy of the certificate of revocation shall be sent to the clerk, and to any stock registrar or transfer agent whose name is on file with said secretary. Until the receipt of such certificate of revocation any such stock registrar or transfer agent may lawfully transfer the stock of said corporation and perform all other duties incident to his office.

**Sec. 25.** Transfer of bank stock, or of corporation stock of deceased non-residents subject to tax; when banks are liable for tax. 1911, c. 163, § 4. Subject to the provisions of the preceding section if a foreign executor, administrator or trustee assigns or transfers any stock in any national bank located in this state or in any corporation organized under the laws of this state, owned by a deceased non-resident at the date of his death and liable to a tax under the provisions of this chapter, the tax shall be paid to the attorney-general at the time of such assignment or transfer; and if it is not paid when due, such executor, administrator or trustee shall be personally liable therefor until it is paid. Subject to the provisions of said section a bank located in this state or a corporation organized under the laws of this state which shall record a transfer of any share of its stock made by a foreign executor, administrator or trustee, or issue a new certificate for a share of its stock at the instance of a foreign executor, administrator or trustee before all taxes imposed thereon by the provisions of this chapter have been paid, shall be liable for such tax in an action of debt brought by the attorney-general.

**Sec. 26.** Transfer of securities or assets of estate of non-resident. 1911, c. 163, § 4. Subject to the provisions of section twenty-four no person or corporation shall deliver or transfer any securities or assets belonging to the estate of a non-resident decedent to anyone unless authority to receive

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the same shall have been given by a probate court of this state, upon satisfactory evidence that all inheritance taxes provided for by this chapter have been paid, guaranteed or secured as hereinbefore provided. Any person or corporation that delivers or transfers any securities or assets in violation of the provisions of this section shall be liable for such tax in an action of debt brought by the attorney-general.

**General Provisions.**

**Sec. 27. Duties of town and city clerks.** 1911, c. 163, § 4. 1913, c. 190, § 2. Clerks of cities and towns shall report to the treasurer of state the names of all persons dying within their respective municipalities who in the judgment of said clerks leave estates the value whereof exceeds five hundred dollars, together with the names of husband, wife and next of kin so far as known to him; such report shall be mailed to the treasurer of state within ten days of the time when the certificate of death is filed with such clerk. The treasurer of state shall prepare and furnish blanks for such returns.

**Sec. 28. Fees of judges and registers of probate.** R. S. c. 8, § 84. The fees of judges or registers of probate for the duties required of them by this chapter shall be, for each order, appointment, decree, judgment, or approval of appraisal or report required hereunder, fifty cents, and for copies of records, the fees that are now allowed by law for the same. And the administrators, executors, trustees or other persons paying said tax shall be entitled to deduct the amount of all such fees paid to the judge or register of probate from the amount of said tax to be paid to the treasurer of state.

**Sec. 29. Construction of words.** R. S. c. 9, § 85. 1909, c. 187, § 6. In the foregoing sections relating to inheritances the word "person" shall be construed to include bodies corporate as well as natural persons; the word "property" shall be construed to include both real and personal estate, and any form of interest therein whatsoever, including annuities.

See c. 1, § 6, ¶ x, xiv.