

MAINE STATE LEGISLATURE

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CHARLOTTESVILLE VIRGINIA

Chapter 155.

Inheritance, Succession and Estate Taxes.

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- Sections 45-58. Interstate Arbitration of Death Taxes.
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- Sections 64-69. Reciprocity in Collection of Death Taxes.

Director'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. Inheritance and succession tax laws administered.—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 state tax assessor.

In the absence or disability of the state tax assessor, the governor and council may, if deemed feasible, authorize the commissioner of finance and administration to exercise all the powers of and perform all the duties of the state tax assessor with respect to such taxes during such absence or disability. (R. S. c. 142, § 1. 1947, c. 354, § 2. 1953, c. 265, § 6.)

Property Taxable.

Sec. 2. Property taxable; exemptions.—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 170.

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, or the care or maintenance of cemeteries, cemetery lots or structures therein or thereon, 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. (R. S. c. 142, § 2. 1949, c. 86.)

I. General Consideration.

II. Property Passing by Inheritance and Succession, and Otherwise.

III. Property Passing to Organizations.

I. GENERAL CONSIDERATION.

Section provides for excise tax, not property tax.—The tax provided for in this section is clearly an excise tax. The whole tenor and scope of the section is one of excise, and not a tax upon property, as that term is used in the constitution. It is not laid according to any rule of proportion, but is laid upon the interests specified in the section without any reference to the whole amount required to be raised for public purposes, or to the whole amount of property in the state liable to be assessed for public purposes. *State v. Hamlin*, 86 Me. 495, 30 A. 76.

The exaction imposed by this section is not, strictly, a tax on the property passing, but an excise or duty with exemptions and rates determinable with reference to the particular succession, which is enforced against the privilege of so succeeding to or receiving the title to property. In *re Cassidy's Estate*, 122 Me. 33, 118 A. 725.

Excise must be uniform as to classes which may be founded upon blood relationships.—It is necessary to make an excise, such as that provided in this section, uniform as to the entire class concerned. The legislature must not tax one and exempt another in the same class. But it is not a violation of this principle to require as in this section an excise from all collaterals and strangers, and exempt from the excise classes nearer in blood to the decedent. *State v. Hamlin*, 86 Me. 495, 30 A. 76.

Section satisfies constitutional requirement of uniformity.—The tax under this section is an excise or duty upon the right or privilege of taking property under the law of the state. It is uniform in its rate as to the entire class of collaterals and strangers, which satisfies the constitutional requirement of uniformity. *State v. Hamlin*, 86 Me. 495, 30 A. 76.

And does not conflict with state constitution.—§ 2 et seq., imposing a tax on col-

lateral inheritance, provides sufficient opportunity to parties interested to be heard, and have their rights protected, and cannot be deemed to conflict with Me. Const., Art. 1, § 6. *State v. Hamlin*, 86 Me. 495, 30 A. 76.

The excise may be laid only on existing interest.—The tax provided by this section must be laid upon and subtracted from a definitely existing interest; the bare possibility of an interest will not suffice. In *re Cassidy's Estate*, 122 Me. 33, 118 A. 725.

From the context of this chapter as a whole, the meaning of the legislature is apparent that the prescribed rates should be applied, not upon a mere possible interest, but upon a beneficial interest, within the time appointed by § 15, when consistently possible. In *re Cassidy's Estate*, 122 Me. 33, 118 A. 725.

Statute of limitation not applicable to section.—Delay in assessing the tax provided under this section affords no defense against it. The general principle is that statutes of limitation do not run against the sovereign, unless the state is necessarily included by the nature of the mischiefs to be remedied. This exception to the general principle is not applicable to this section. In *re Meier's Estate*, 144 Me. 358, 69 A. (2d) 664.

History of section.—See *State v. Hamlin*, 86 Me. 495, 30 A. 76.

Cited in *Whiting v. Farnsworth*, 108 Me. 384, 81 A. 214; *Stubbs*, Appellant, 141 Me. 143, 39 A. (2d) 853.

II. PROPERTY PASSING BY INHERITANCE AND SUCCESSION, AND OTHERWISE.

Meaning of "within the jurisdiction."—The words "within the jurisdiction" as used in this subsection were intended to cover, and do cover, all the property of all persons domiciled in Maine at the time of death which the state has authority to tax by appropriate legislation. In *re Meier's Estate*, 144 Me. 358, 69 A. (2d) 664.

Descent is statutory privilege, not constitutional or natural right.—There is no provision of our constitution, or of that of the United States, which secures the right to any one to control or dispose of his property after his death, nor the right to any one, whether kindred or not, to take it by inheritance. Descent is a creature of statute, and not a natural right. *State v. Hamlin*, 86 Me. 495, 30 A. 76.

And state may exact excise therefor.—It is entirely within the province of the legislature to determine who shall and who shall not take the estate, and the proportion in which they may take, and whether

severally, or as joint tenants, per capita or per stirpes. The state is not debarred from exacting an excise or duty as provided by this section for such privilege allowed by the state. *State v. Hamlin*, 86 Me. 495, 30 A. 76.

Inheritance tax operates upon privilege of receiving property.—This section provides for a tax based on the value of property which shall "pass." It is not a tax on property as such, but is a tax on the privilege of receiving property by will or inheritance. *Whorff v. Johnson*, 143 Me. 198, 58 A. (2d) 553.

It depends on transfer of title under state law.—Jurisdiction for the purpose of imposing a succession tax under this section exists when the exercise of some essential privilege incident to the transfer of the title depends for its legality upon the law of the state levying the tax. *State v. First Nat. Bank of Boston*, 130 Me. 123, 154 A. 103.

And, unless otherwise provided, is not subject to property tax exemptions.—Within the meaning of this section an inheritance tax is not a tax on property, as such, but is a tax on the privilege of receiving property by will or inheritance. Therefore, a statute that exempts real or personal property from taxation would not necessarily exempt from a tax the privilege of receiving the property. *MacDonald v. Stubbs*, 142 Me. 235, 49 A. (2d) 765.

The burden of proving that a particular legacy is exempt is on the one who claims that it is exempt from the usual obligation. Taxation is the rule and exemption the exception. *MacDonald v. Stubbs*, 142 Me. 235, 49 A. (2d) 765.

Taxable succession must be ascertainable, factually or theoretically.—In order to levy the excise provided in this section, it is essential that the succession should be ascertainable, either in point of actual fact, or the precise fact not being available, then theoretically in accordance with such method, if there be any, as shall have been legislatively defined. In *re Cassidy's Estate*, 122 Me. 33, 118 A. 725.

And devise over not taxable if absolute right of disposition vests in devisee.—If a devisee or legatee is given the absolute right to dispose of the property at pleasure, the property vests in such devisee or legatee, and a devise over is inoperative and not taxable under this section. *Luques*, Appellant, 114 Me. 235, 95 A. 1021.

But stock in state corporation held by nonresident decedent subject to inheritance tax.—Within the meaning of this section shares of stock in a corporation organized

under the laws of the state levying the tax and belonging to a nonresident decedent are property within the jurisdiction of the taxing state and there subject to an inheritance tax, regardless of whether the certificates of stock were at the time of the death in the state of the domicile or in the taxing state, and such a tax does not violate any provision of the fourteenth amendment. *State v. First Nat. Bank of Boston*, 130 Me. 123, 154 A. 103.

As is property under control of inhabitant, though legal title without the state.—Maine is not precluded constitutionally from imposing an inheritance tax on the succession of intangible property subject to the control of one of its inhabitants at the time of death, merely because the legal title thereto is held in a revocable trust administrable without its borders, when the indicia thereof are so located. *In re Meier's Estate*, 144 Me. 358, 69 A. (2d) 664.

Sub-§ I, C applies to United States bonds issued to joint owners with right of survivorship, as well as to joint deposits in banks transacting business in Maine. See *Hallett v. Bailey*, 143 Me. 1, 54 A. (2d) 533.

Gift of United States bonds taxable.—U. S. savings bonds whether payable to decedent or another; or whether payable to decedent, or payable on death to another are subject to inheritance taxes as assets of decedent's estate, even though shortly after purchase and before death they were delivered as a gift. *Weeks v. Johnson*, 146 Me. 371, 82 A. (2d) 416.

And federal law permits such taxation.—The federal law does not prohibit the state from levying, under this section, a succession tax on United States bonds. The federal law not only does not pro-

hibit such taxation; it permits it. *Gould v. Johnson*, 146 Me. 366, 82 A. (2d) 88.

The order of names on the bank books is not prima facie evidence of ownership within the meaning of this section. *Gould v. Johnson*, 146 Me. 366, 82 A. (2d) 88.

Nor does wife's assistance in joint business make earnings hers.—The fact that a woman assists her husband in his business does not make any part of the earnings of a jointly conducted business hers for the purposes of this section. *Gould v. Johnson*, 146 Me. 366, 82 A. (2d) 88.

III. PROPERTY PASSING TO ORGANIZATIONS.

Section exempts organizations exempt from property tax.—This section provides that if an organization is exempted under the property tax law it is also exempted under the inheritance tax law. *MacDonald v. Stubbs*, 142 Me. 235, 49 A. (2d) 765.

But corporation cannot take free of inheritance tax to maintain taxable property.—It would not appear to be within legislative intent in the exempting provisions of this section to say that a corporation might take money free of inheritance taxation for the declared purpose of maintaining property subject to taxation, or to relieve individuals of payment of dues incidental to membership. Any such corporation, therefore, is subject to inheritance tax under this section. *MacDonald v. Stubbs*, 142 Me. 235, 49 A. (2d) 765.

For a case under this section before it expressly exempted public corporations, see *In re Clark's Estate*, 131 Me. 105, 159 A. 500.

For a case under this section before the exemption of property passing to cemeteries, see *In re Hill's Estate*, 131 Me. 211, 160 A. 916.

Sec. 3. Tax on Class A.—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, stepchild, adoptive parent, wife or widow of a natural or adopted son or husband or widower of a natural or adopted daughter of a decedent, grandchild who is the natural or adopted child of a natural or adopted child 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, stepchild or adoptive parent, or grandchild who is the natural or adopted child of a natural or adopted deceased child of a decedent, shall in each case be \$10,000, provided, however, that if there be more than 1 such grandchild, their total exemption shall, per stirpes, be \$10,000; and the value exempt to or for the use of any other person falling within said

Class A, to wit: grandparent and other lineal ancestors of remoter degrees, wife or widow of a natural or adopted son, or husband or widower of a natural or adopted daughter of a decedent, grandchild who is the natural or adopted child of a natural or adopted living child of a decedent and other lineal descendants of remoter degrees, shall in each case be \$500. (R. S. c. 142, § 3. 1945, c. 358, § 1. 1947, c. 260, § 1. 1949, c. 411.)

Cross reference.—See note to c. 170, § 3, re recognition of illegitimate child as lineal descendant, child and heir of the mother.

Exemption attaches severally to each portion of estate passing.—The sum exempted to each specified class from taxation under this section and sections 4 and 5 is not an exemption from the corpus of the estate merely, but a several exemption of that sum from each portion of the estate passing by will or descent to persons falling within such specified classes. The legislature intended the exemption to apply to each taker within the class subject to the duty. Such taker, subject to the tax, shall be liable upon the amount received, above five hundred dollars. *State v. Hamlin*, 86 Me. 495, 30 A. 76.

Meaning of "widower."—The common meaning of the word "widower" as used in this section is a man who has lost his wife by death and has not married again, a man whose wife is dead. *Canal Nat. Bank of Portland v. Bailey*, 142 Me. 314, 51 A. (2d) 482.

Widower not remarried at time of testator's death takes as widower.—A man ceases to be a widower when he marries again. But if he does not again marry until after the death of the testator by whose will he takes under this section as widower of the testator's deceased daughter, he would, at the time of the testator's death, have been the widower of the deceased daughter within the meaning and contemplation of the section. *Canal Nat. Bank of Portland v. Bailey*, 142 Me. 314, 51 A. (2d) 482.

The natural child of a testator is to be treated as a "lineal descendant" and "child," and designated as Class A, under this section. *Whorff v. Johnson*, 143 Me. 198, 58 A. (2d) 553.

"Issue" and "lineal descendant" are synonymous and include illegitimate child.

—The consistent design and policy through the years, since the enactment in 1838 of the original form of c. 170, § 3, which made the illegitimate child the heir of his mother, has been to more fairly treat the innocent illegitimate, and to improve and make easier his unfortunate circumstances of birth. When the legislature stated in this section that a "lineal descendant" was in Class A, it necessarily had the intention, in view of the existing legislation, to include the issue of an unmarried mother. "Issue" and "lineal descendant" are synonymous. *Whorff v. Johnson*, 143 Me. 198, 58 A. (2d) 553.

When it enacted this section making the "lineal descendant" subject to a tax of 2% on property received up to \$50,000 and making the exemption \$10,000 for a "child," the legislature intended the child and lineal descendant of the unmarried mother as well as the child of the wedded mother. *Whorff v. Johnson*, 143 Me. 198, 58 A. (2d) 553.

That the legislature named the child, in this section, who had been "adopted," and the "stepchild," would not of necessity exclude the illegitimate, because there was no occasion to use the word "illegitimate." "Child" in its ordinary and usual meaning, plus the statutory recognition, contained in c. 170, § 3, was sufficient. *Whorff v. Johnson*, 143 Me. 198, 58 A. (2d) 553.

And property of the mother, passing to her illegitimate daughter passes the same as if she were legitimate, and so passes to her child as "lineal descendant" under this section. *Whorff v. Johnson*, 143 Me. 198, 58 A. (2d) 553.

Former provision of section.—For a former provision concerning exemption of child taking by representation, see *Stubbs, Appellant*, 141 Me. 143, 39 A. (2d) 853.

Applied in *In re Meier's Estate*, 141 Me. 358, 69 A. (2d) 664.

Sec. 4. Tax on Class B.—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 8% 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. (R. S. c. 142, § 4, 1945, c. 358, § 2.)

Constitutionality of section.—See note **Stated** in Whorff v. Johnson, 143 Me. to § 2, this chapter. 198, 58 A. (2d) 553.

Sec. 5. Tax on Class C.—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. (R. S. c. 142, § 5.)

Constitutionality of section.—See note **v. Bailey**, 142 Me. 314, 51 A. (2d) 482. to § 2, this chapter. **Stated** in Whorff v. Johnson, 143 Me. **Quoted** in Canal Nat. Bank of Portland 198, 58 A. (2d) 553.

Sec. 6. All property treated as single interest.—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. (R. S. c. 142, § 6.)

Sec. 7. Value of exempted property.—In nonresident 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 nonresident taxable in this state bears to the total estate wherever situated. (R. S. c. 142, § 7.)

Sec. 8. Bequests to executors or trustees.—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 44, 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 44, inclusive. (R. S. c. 142, § 8.)

Sec. 9. Deeds, etc., inter vivos.—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. (R. S. c. 142, § 9.)

Value for Taxation.

Sec. 10. Tax or value as of testator's death.—Except as otherwise provided in section 13, the tax imposed by the provisions of sections 1 to 44, inclusive, shall be assessed on the value of the property at the time of the death of the decedent. (R. S. c. 142, § 10.)

Sec. 11. Value of estates in remainder.—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 appropriate table of the United States life tables and actuarial tables, based on the 1940 United States census 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.

As respects property taxable by reason of the deaths of persons dying before August 8, 1953, such values shall be determined by the law in force prior thereto. (R. S. c. 142, § 11. 1953, c. 45.)

Sec. 12. Settlement when computation impossible.—In case it is impossible to compute the present value of any interest, the 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 state tax assessor. (R. S. c. 142, § 12. 1947, c. 354, § 3.)

Authorization of compromises not a present judicial taxing.—It would be grave error to suppose that the authorizing of compromises by the state tax assessor and executors or trustees under this section—not where there is doubtfulness in respect to the eventual takers, but where, for rea-

sons readily conceivable, the present value of an actual interest cannot be computed—contemplated a present taxing by a judicial decree. In re Cassidy's Estate, 122 Me. 33, 118 A. 725.

Cited in In re Meier's Estate, 144 Me. 338, 69 A. (2d) 664.

Sec. 13. When settlement cannot be effected.—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 state tax assessor when said taxes become due and payable and will pay the same with interest to the state. Provided, however, that upon notification by the state tax assessor that a deposit has been made with the treasurer of state in accordance with the provisions of section 16 the judge of probate may, if the deposit be sufficient, cancel or omit to require the bond which this section otherwise requires, or may reduce the amount thereof by the amount of such deposit. (R. S. c. 142, § 13. 1947, c. 354, § 4. 1951, c. 136, § 1.)

Where a contingency makes succession uncertain, the tax assessment must be deferred as provided by this section until uncertainty has become certainty, by virtue

of a contingent interest becoming vested in possession, or at least vested in right. In re Cassidy's Estate, 122 Me. 33, 118 A. 725.

Sec. 14. Tax deducted before property delivered.—An executor, administrator or trustee holding property subject to the tax imposed by the provisions of sections 1 to 44, 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 24, 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. (R. S. c. 142, § 14.)

Tax Payable.

Sec. 15. When tax payable.—Except as otherwise provided in sections 13 and 29, the tax imposed by the provisions of sections 1 to 44, inclusive, shall be payable 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 state tax assessor may for cause extend the time of payment. (R. S. c. 142, § 15. 1947, c. 354, § 5. 1951, c. 266, § 116.)

Sec. 16. Deposits.—If, at the tax due date, all the information is not available to make it possible to arrive at a final determination of the tax or if it is impossible to compute the present value of any taxable share and the tax thereon is not compromised as provided in section 12, any person who is or may become liable for the tax may, subject to the approval of the state tax assessor, deposit with the treasurer of state cash or bearer bonds or both in total value not in excess of the state tax assessor's estimate of the highest possible tax, in such kind and amount and upon such terms as the state tax assessor may require to provide security, partial or total, for payment of the tax. Such security shall be in lieu of security required elsewhere in this chapter. Where the tax so secured is not presently due by reason of the provisions of section 13, interest actually earned prior to the tax due date shall be paid to the appropriate payee and shall not be retained by the state. (1951, c. 136, § 2. 1953, c. 308, § 105.)

Sec. 17. Interest.—If taxes imposed by the provisions of sections 1 to 44, 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. As respects taxes due on estates of persons dying after August 13, 1947, said interest rate shall be 6%. Interest as herein provided shall not accrue with respect to so much of any tax as is covered by a cash deposit made in accordance with section 16 from the date such deposit is made. (R. S. c. 142, § 16. 1947, c. 260, § 2. 1949, c. 349, § 133. 1951, c. 136, § 3.)

Lien.

Sec. 18. Lien.—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 44, 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 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. (R. S. c. 142, § 17. 1947, c. 354, § 6.)

Payment.

Sec. 19. Administrators, etc., liable for unpaid taxes.—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 44, inclusive, with interest, as hereinbefore provided, until the same have been paid. (R. S. c. 142, § 18.)

Cross reference.—See c. 154, § 40, re receivers of estates of absentees to pay inheritance taxes. **Applied** in *State v. First Nat. Bank of Boston*, 130 Me. 123, 154 A. 103.

Sec. 20. If legacy payable out of realty.—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. (R. S. c. 142, § 19.)

Sec. 21. Action of debt by state; bond.—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 44, 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. (R. S. c. 142, § 20.)

Sec. 22. Administrator 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 state tax assessor, shall appoint an administrator. (R. S. c. 142, § 21. 1947, c. 354, § 7.)

Cited in *Whiting v. Farnsworth*, 108 Me. 384, 81 A. 214.

Sec. 23. Refund.—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. (R. S. c. 142, § 22.)

Sec. 24. Sale of realty to pay taxes.—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. (R. S. c. 142, § 23.)

See c. 163, § 2, re jurisdiction of judge of probate to grant license for sale of real estate.

Appraisal and Valuation.

Sec. 25. Inventory of estate.—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 state tax assessor on blanks to be furnished by the 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 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 state tax assessor, the judge of probate may remove him from his said trust. (R. S. c. 142, § 24. 1947, c. 354, § 8.)

Sec. 26. Banks and loan and building associations to report.—Whenever there shall be a certificate of deposit or account in any bank, savings bank or trust company, or a share account in any loan and building association, and any officer or employee of any such institution, who has charge of any such deposit or account, is informed or has knowledge of the death of any person carried on its records as owner or co-owner thereof, then he shall, within 40 days from the receipt of such information or knowledge, notify the state tax assessor of such death, giving the name of the deceased person, the value as of the date of his death of all accounts and shares in such institution on which his name appears and the names and addresses of any surviving co-owner or co-depositor; provided, however, no such report shall be required if the total of the accounts or shares in such institution does not exceed \$200. The state tax assessor shall supply blanks for such reports upon request. Willful failure to comply herewith shall render such bank, savings bank, trust company or loan and building association liable to a penalty not to exceed \$10 to be collected in an action of debt brought by the attorney general. It shall be a complete defense to such action of debt that such officer or employee of the banking institution in charge of such account or accounts did not know of the depositor's death or no inheritance or estate tax was payable.

The state tax assessor shall pay to each bank and loan and building association the sum of 25c for each report concerning all the accounts of any one decedent in the reporting institution. Where the decedent has a deposit or deposits in more than one branch of the same bank or in the main bank and one or more branches, a separate fee shall be payable on account of each bank and branch reporting. (1949, c. 32. 1953, c. 308, § 106.)

Sec. 27. Accounts not allowed unless tax 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 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 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 security has been given as provided in section 13. (R. S. c. 142, § 25. 1947, c. 354, § 9. 1951, c. 136, § 4.)

Sec. 28. Value of property determined; appeal.—The value of the property upon which the tax is computed shall be determined by the 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 state tax assessor to the probate court in the county where the estate is being administered as provided in section 33.

At any time within said 90 days the 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 state tax assessor shall notify the persons by whom the tax is payable and the appeal may be taken within 90 days thereafter. (R. S. c. 142, § 26. 1947, c. 354, § 10.)

Sec. 29. Amount of tax determined.—The 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 44, inclusive, the 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 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 state tax assessor, the executor, administrator, trustee or other fiduciary shall forthwith notify the 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. (R. S. c. 142, § 27. 1947, c. 260, § 3; c. 354, § 11. 1949, c. 349, § 134.)

Sec. 30. Deductions of nonresidents.—In the case of the estate of a nonresident the net estate for the purpose of the taxes imposed by the provisions of this chapter shall be ascertained by deducting from the gross estate the following items:

- I. Fees of the probate court;
- II. Advertising expenses incidental to administration in this state;
- III. Fees paid to appraisers for appraising property within this state;
- IV. Expenses incurred in connection with procuring a fiduciary's bond filed in the probate court in this state;
- V. Reasonable compensation of executors and administrators and their statutory agents qualifying as such in the Maine probate court and reasonable fees for Maine attorneys;
- VI. The amount at the date of the decedent's death of all unpaid mortgages upon real or tangible personal property situated within this state, which mortgages were not deducted in the appraisal of the property mortgaged;
- VII. Unpaid taxes and special assessments upon real or tangible personal

property situated within this state which were a lien at the date of the decedent's death;

VIII. The federal estate tax, if any, multiplied by a fraction, the numerator of which is the value of the real and tangible personal property in Maine, undiminished by mortgage or pledge, and the denominator the gross estate wherever situated;

IX. Debts of the decedent, and other deductions allowed resident estates, shall be allowed nonresident estates only when and to the extent that it is necessary to pay the amounts of such deductions from the proceeds of sale of real property or tangible personal property in Maine or directly by the transfer of such property. (1947, c. 260, § 4.)

Sec. 31. If information withheld.—Whenever an executor, administrator, trustee or any person liable to taxation under the provisions of sections 1 to 44, inclusive, refuses or neglects to furnish to the state tax assessor any information which in the opinion of the 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 state tax assessor shall certify such taxes at the highest rate at which they could in any event be computed. (R. S. c. 142, § 28. 1947, c. 354, § 12.)

Sec. 32. Registers of probate to send reports of appointments of administrators, etc., to state tax assessor.—The registers of probate in the several counties shall send to the 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. (R. S. c. 142, § 29. 1947, c. 354, § 13.)

Sec. 33. Petition for abatement.—An executor, administrator, trustee, grantee, donee, survivor or beneficiary aggrieved by the determination of the 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 state tax assessor shall be amended in accordance with the decree of the court. (R. S. c. 142, § 30. 1947, c. 354, § 14.)

Burden on petitioner to show erroneous assessment.—The burden is on the petitioner, under this section, to show that the state tax assessor is in error in making the assessment. *Gould v. Johnson*, 146 Me. 366, 82 A. (2d) 88.

Applied in *MacDonald v. Stubbs*, 142

Me. 235, 49 A. (2d) 765; *Canal Nat. Bank of Portland v. Bailey*, 142 Me. 314, 51 A. (2d) 482; *Hallett v. Bailey*, 143 Me. 1, 54 A. (2d) 533; *Whorff v. Johnson*, 143 Me. 198, 58 A. (2d) 553; *In re Meier's Estate*, 144 Me. 358, 69 A. (2d) 664; *Weeks v. Johnson*, 146 Me. 371, 82 A. (2d) 416.

Sec. 34. Inspection of documents filed with state tax assessor.—Papers, copies of papers, affidavits, statements, letters and other information and evidence filed with the 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 state tax assessor, his 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. (R. S. c. 142, § 31. 1947, c. 354, § 15.)

Sec. 35. State tax assessor to prepare forms and make rules of procedure.—The 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 44, inclusive. (R. S. c. 142, § 32. 1947, c. 354, § 16.)

Sec. 36. Witnesses examined; attendance compelled.—The 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 44, 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 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 state tax assessor may compel the attendance of witnesses and the giving of testimony before the state tax assessor in the same manner, to the same extent and subject to the same penalties as if before said court. (R. S. c. 142, § 33. 1947, c. 354, § 17.)

Sec. 37. Authority of state tax assessor.—The state tax assessor shall collect all taxes, interest and penalties provided by sections 1 to 44, 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 state tax assessor 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.

The state tax assessor shall pay over all receipts from such taxes, interest and penalties to the treasurer of state daily. (R. S. c. 142, § 34. 1947, c. 354, § 18.)

Estate Taxes.

Sec. 38. Estate taxes imposed.—There shall be assessed by the 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. 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 situated 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. (R. S. c. 142, § 35. 1947, c. 354, § 19.)

Legislature has power to enact section.—The legislature has the right and power to enact a revenue law which shall be in form an estate tax law, but in intent and purpose, as stated in § 40 of this chapter, an act to obtain for this state the benefit of the credit allowed under the Federal Revenue Act of 1926. Opinion of the Justices, 126 Me. 620, 137 A. 53.

And tax provided is constitutional.—There is no provision of either the state or federal constitution that would be violated by the tax provided by this section. Opinion of the Justices, 126 Me. 620, 137 A. 53.

Estate taxes as provided in this section are excise taxes and not property taxes. Opinion of the Justices, 126 Me. 620, 137 A. 53.

The purpose of securing a federal credit is not valid objection to the tax.—That the tax here provided is for the avowed purpose of increasing the state's own revenues without imposing any greater burden on the estate of a deceased person by reason of a credit voluntarily extended by the federal government to the citizens of any state imposing such taxes is not a valid objection. Opinion of the Justices, 126 Me. 620, 137 A. 53.

Sec. 39. 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 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. (R. S. c. 142, § 36. 1947, c. 354, § 20.)

Sec. 40. Intent of §§ 38-42, inclusive.—The intent and purpose of sections 38 to 42, 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 38 to 42, inclusive, by imposing an additional tax, and the same shall be liberally construed to effect this purpose. The 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. (R. S. c. 142, § 37. 1947, c. 354, § 21.)

Sec. 41. Exceptions.—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. (R. S. c. 142, § 38.)

Legislature has power to enact section.—The legislature has the right and power to enact a law which shall, by its terms become void and of no effect upon the repeal by Congress of the Federal Revenue Act of 1926 or upon the amendment of the federal act by Congress whereby Congress repeals the provisions of the act providing for a credit of the taxes paid to the several states of the United States not

exceeding eighty per cent of the tax now imposed by that act. Opinion of the Justices, 126 Me. 620, 137 A. 53.

And such enactment is not delegation of power to Congress.—The provision of this section limiting the act to the estates of those dying subsequent to the date of the effective repeal of the Federal Revenue Act of 1926 is not a delegation by this state of legislative power to Congress,

but rather a definite limitation upon certain provisions of the act, a limitation fixed by the legislature of this state. Opinion of the Justices, 126 Me. 620, 137 A. 53.

Repeal of federal act would affect only estates of persons dying thereafter.—The effect of the repeal of the federal act

would not be to repeal the estate tax provided in this chapter in its entirety. It would still remain in force except as to the estates of persons dying subsequent to the effective date of the act of Congress repealing the credit provision of the Federal Revenue Act. Opinion of the Justices, 126 Me. 620, 137 A. 53.

Sec. 42. Inheritance tax law applies to estate tax law.—All provisions of sections 1 to 44, inclusive, relating to inheritance taxes, shall apply to the sections relating to estate taxes wherever the same are applicable. (R. S. c. 142, § 39.)

Definitions and Limitations.

Sec. 43. Definitions.—Wherever used in sections 1 to 44, 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. (R. S. c. 142, § 40.)

See c. 10, § 22, sub-§§ X, XIV, re rules of construction as to “land,” “lands,” “real estate” and “person.”

Sec. 44. Limitations.—The provisions of sections 1 to 44, 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 state tax assessor rather than in the probate courts of the several counties of the state. (R. S. c. 142, § 41. 1947, c. 354, § 23.)

Interstate Arbitration of Death Taxes.

Sec. 45. Arbitration agreement.—When the state tax assessor claims that a decedent was domiciled in this state at the time of his death and the taxing authorities of another state or states make a like claim on behalf of their state or states, the state tax assessor may with the approval of the attorney general make a written agreement with the other taxing authorities and with the executor or administrator to submit the controversy to the decision of a board consisting of one or any uneven number of arbitrators. The executor or administrator is authorized to make the agreement. The parties to the agreement shall select the arbitrator or arbitrators. (1949, c. 33.)

Sec. 46. Hearings.—The board shall hold hearings at such times and places as it may determine, upon notice to the parties to the agreement, all of whom shall be entitled to be heard, to present evidence and to examine and cross-examine witnesses. (1949, c. 33.)

Sec. 47. Powers of board.—The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of books, papers and documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, any judge of a court of record of this state, upon application by the board, may make an order requiring compliance with the subpoena and the court may punish failure to obey the order as a contempt. (1949, c. 33.)

Sec. 48. Determination of domicile.—The board shall, by majority vote, determine the domicile of the decedent at the time of his death. This determination shall be final for purposes of imposing and collecting death taxes but for no other purpose. (1949, c. 33.)

Sec. 49. Majority vote.—Except as provided in section 47 in respect of the issuance of subpoenas, all questions arising in the course of the proceedings shall be determined by majority vote of the board. (1949, c. 33.)

Sec. 50. Filing of determination of domicile and other documents.—The state tax assessor, the board, or the executor or administrator shall file the determination of the board as to domicile, the record of the board's proceedings and the agreement, or a duplicate, made pursuant to section 45, with the authority having jurisdiction to assess the death taxes in the state determined to be the domicile and shall file copies of all such documents with the authorities that would have been empowered to assess the death taxes in each of the other states involved. (1949, c. 33.)

Sec. 51. Interest or penalties for nonpayment of taxes.—In any case where it is determined by the board that the decedent died domiciled in this state, interest, if otherwise imposed by law, for nonpayment of death taxes between the date of the agreement and of filing of the determination of the board as to domicile, shall not exceed 6% per year. (1949, c. 33.)

Sec. 52. Compromise by parties to arbitration agreement.—Nothing contained herein shall prevent at any time a written compromise, if otherwise lawful, by all parties to the agreement made pursuant to section 45, fixing the amounts to be accepted by this and any other state involved in full satisfaction of death taxes. (1949, c. 33.)

Sec. 53. Compensation and expenses.—The compensation and expenses of the members of the board and its employees may be agreed upon among such members and the executor or administrator and if they cannot agree shall be fixed by the probate court of the state determined by the board to be the domicile of the decedent. The amounts so agreed upon or fixed shall be deemed an administration expense and shall be payable by the executor or administrator. (1949, c. 33.)

Sec. 54. Reciprocal application.—The provisions of sections 45 to 58, inclusive, shall apply only to cases in which each of the states involved has a law identical with or substantially similar to said sections. (1949, c. 33.)

Sec. 55. "State" defined.—As used in sections 45 to 58, inclusive, the word "state" means any state, territory or possession of the United States and the District of Columbia. (1949, c. 33.)

Sec. 56. Interpretation.—The provisions of sections 45 to 58, inclusive, shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them. (1949, c. 33.)

Sec. 57. Short title.—Sections 45 to 58, inclusive, may be cited as the "Uniform Act on Interstate Arbitration of Death Taxes". (1949, c. 33.)

Sec. 58. Effective date.—The provisions of sections 45 to 58, inclusive, shall apply to estates of decedents dying before or after August 6, 1949. (1949, c. 33. 1951, c. 266, § 117.)

Interstate Compromise of Death Taxes.

Sec. 59. Compromise agreement; filing; interest or penalty for non-payment of taxes.—When the state tax assessor claims that a decedent was domiciled in this state at the time of his death and the taxing authorities of another state or states make a like claim on behalf of their state or states, the state tax assessor may, with the approval of the attorney general, make a written agreement of compromise with the other taxing authorities and the executor or administrator that a certain sum shall be accepted in full satisfaction of any and all death taxes imposed by this state, including any interest or penalties to the date of filing the agreement. The agreement shall also fix the amount to be accepted by the other states in full satisfaction of death taxes. The executor or administrator is authorized to make such agreement. Either the state tax assessor or the executor or administrator shall file the agreement or a duplicate with the authority that would be empowered to assess death taxes for this state if there had been no agreement; and thereupon the tax shall be deemed conclusively fixed as therein provided. Unless the tax is paid within 30 days after filing the agreement, interest shall thereafter accrue upon the amount fixed in the agreement, but the time between the decedent's death and the filing shall not be included in computing the interest. (1949, c. 34.)

Sec. 60. "State" defined.—As used in sections 59 to 63, inclusive, the word "state" means any state, territory or possession of the United States and the District of Columbia. (1949, c. 34.)

Sec. 61. Interpretation.—The provisions of sections 59 to 63, inclusive, shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them. (1949, c. 34.)

Sec. 62. Short title.—Sections 59 to 63, inclusive, may be cited as the "Uniform Act on Interstate Compromise of Death Taxes". (1949, c. 34.)

Sec. 63. Effective date.—The provisions of sections 59 to 63, inclusive, shall apply to estates of decedents dying before or after August 6, 1949, (1949, c. 34, 1951, c. 266, § 118.)

Reciprocity in Collection of Death Taxes.

Sec. 64. Proof of payment of death taxes filed in probate court.—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 nonresident 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. (R. S. c. 142, § 42.)

Sec. 65. Form of proof; when proof not filed.—The proof required by the provisions of section 64 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 64.

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 64 to 69, 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. (R. S. c. 142, § 43.)

Sec. 66. Violation of §§ 64-65.—Unless the provisions of either section 64 or section 65 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. (R. S. c. 142, § 44.)

Sec. 67. Reciprocal effect of §§ 64-69.—The provisions of section 64 to 69, inclusive, shall apply to the estate of any nonresident 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 64 to 69, 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. (R. S. c. 142, § 45.)

Sec. 68. Limitation of §§ 64-69.—Nothing in sections 64 to 69, inclusive, shall be construed to prevent a probate court from ordering the remission of any intangible personal property belonging to the estate of a nonresident decedent which is being administered in this state, and such probate court is authorized to order such remission whenever good cause is shown therefor. (R. S. c. 142, § 46.)

Sec. 69. "State" defined.—For the purposes of sections 64 to 69, inclusive, the word "state" shall be construed to include any territory of the United States, the District of Columbia and any foreign country. (R. S. c. 142, § 47.)