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Inheritance Tax Law

(With Digest of Colorado Cases)

State of Colorado



Legal Department

WILLIAM L. BOATRIGHT
Attorney General
Denver

Effective July 10, 1921, at 5 o'clock, P. M.
Standard Time

1926 Edition

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State of Colorado

Inheritance Tax Law

(With Digest of Colorado Cases)

An Act Passed by the Twenty-third
General Assembly

Effective July 10, 1921, at 5 o'clock, P. M. Standard Time

1926 Edition

LEGAL DEPARTMENT

WILLIAM L. BOATRIGHT, ATTORNEY GENERAL

DENVER

ANDREW H. WOOD, Inheritance Tax Commissioner
and Assistant Attorney General



C. A. EATON, Deputy Commissioner
A. M. MORRIS, Deputy Commissioner
G. W. MOSCRIPT, Appraiser
O. S. BRINKER, Appraiser
J. W. KLEIN, Special Assistant

Printed by Authority of Inheritance Tax Department

PREFACE

For the convenience of parties interested, we have issued this 1926 edition of the 1921 Inheritance Tax Law of Colorado, to which is added a digest of the Colorado cases brought down to date, together with a number of other citations.

No amendments to this law have been made since its enactment, but an important reduction in the total taxes payable on large estates in states where state inheritance taxes are paid, has been made by the Federal Revenue Act of 1926. Under this Act, the credit on the Federal Estate Tax allowed for inheritance taxes paid to any state, is raised to the maximum of 80% of the Federal tax, instead of 25% allowed under the Federal Revenue Act of 1924. The provision for this reduction is of such general interest and has so important a bearing on the operation of the Colorado Act, that it is set forth herein verbatim as follows:

The tax imposed by this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any state or territory or the District of Columbia, in respect of any property included in the gross estate. The credit allowed by this subdivision shall not exceed 80 per centum of the tax imposed by this section, and shall include only such taxes as were actually paid and credit therefor claimed within three years after the filing of the return required by section 304. — Federal Revenue Act of 1926, section 301 (b).

This credit applies only to the estates of persons dying after February 26, 1926, at 10:25 a. m., Washington time. The estates of persons dying before that date and after June 2, 1924, at 4:01 p. m., when the 1924 act went into effect, are allowed a similar credit of not to exceed 25% of the Federal tax.

To obtain this credit, it has been necessary to submit to the Commissioner of Internal Revenue a complete list of the property in respect to which the state taxes have been imposed, and a statement of the amount thereof paid, certified under the hand and seal of the officer of the taxing state having custody of the records pertaining to such taxes. Such certificate is required to set forth the name of the decedent and the date of death, and to show whether a refund of such taxes, or any part thereof, has been authorized, and whether any claim therefor is pending. If any refund has been made, the date and amount thereof and a description of the property or interest in respect to which such refund was made must also be shown. In addition to this certificate, the executor is required to submit his affidavit stating whether any litigation has been instituted, or appeal taken, or any such action

is designed or contemplated by him, or to his knowledge, by any beneficiary or other person, the final determination of which may effect the amount of such taxes.

For the convenience of persons paying taxes on estates in Colorado which appear to be subject to the Federal Estate Tax, we have adopted the practice of issuing and delivering to them duplicate inheritance tax receipts, certified according to all the requirements above outlined, for use in securing the allowance of proper credit under the Federal act. This practice which has greatly facilitated prompt allowance of the credit, we will continue.

Although the Inheritance Tax Law of Colorado has now become so widely known and so generally acquiesced in, that instances of its non-observance are exceedingly rare, nevertheless it seems advisable to call special attention to several important requirements contained in this Act.

Every administrator, executor or trustee is required by Section 10 to file within three months after his appointment a sworn return showing all the property owned by the decedent at the date of his death, or conveyed theretofore by such decedent in contemplation of death. Blank forms will be furnished by this department on application.

Executors, administrators and trustees are personally charged in Section 7 with the duty of paying the tax and they are further enjoined in Sections 8 and 9 not to settle or distribute an estate until the tax is paid.

Banks, trust companies, safe deposit companies and all corporations foreign or domestic are required by Section 12 to obtain the consent of the Attorney General before the transfer is made of any securities or assets of an estate, including all securities and assets and safe deposit boxes held by a decedent jointly with any other person. A violation of this provision may make the offending institution liable for the tax involved, or subject it to a fine in the absence of any tax.

County Judges are prohibited in Section 9 from accepting or allowing the final account of any executor, administrator or trustee, and from closing any estate, until the State Treasurer's receipt for the tax or waiver fee is issued.

Corporations organized under the laws of Colorado are required by Section 23 to report to the Attorney General every six months, all transfers of their stock by or to personal representatives of deceased persons, or transfers dependent in any manner upon the death of the owner.

The inheritance tax is due and payable at the death of the decedent under the provisions of Section 6. If the tax is paid within six months after the death, a **discount** of five per cent is allowed; and if not paid within one year after the death, **interest** at the rate of ten per cent per annum from the date of death is added.

As frequent enquiries are directed to the Inheritance Tax Department regarding the revenue collected under the Act, and the cost of collection, a statement of such collections and the cost thereof down to the end of the last fiscal year is set forth below, together with the State Treasurer's collections from the mill levy for the same period.

Year	Inheritance Taxes Collected	Expense of Collection	Cost of Collection in Percentage of Amount Collected	Total Taxes for State Purposes Collected by Mill Levy	Mill Levy
1921	\$500,476.52 }	\$54,698.13	5.3%	\$6,864.949	4.35
1922	\$512,687.63 }			\$6,937.807	4.48
1923	\$703,730.82 }	\$50,305.59	3.2%	\$6,065.013	3.93
1924	\$864,161.04 }			\$5,699.850	3.70
1925	\$911,210.78 }	\$23,722.50	2.6%		3.70

It thus appears that inheritance taxes are an important item of the State revenues. We are charged with the duty of protecting the State in the collection of these revenues, which is no slight task. It is the desire of every one connected with the Inheritance Tax Department to administer this law fairly and justly to all. The co-operation we have been receiving from the public is very helpful and gratifying.

Separate blank forms of application for appraisement and waiver in estates of resident and non-resident decedents are furnished by the Inheritance Tax Department. Address all enquiries and requests for such blanks to the Attorney General's Office, Inheritance Tax Department.

WILLIAM L. BOATRIGHT,
Attorney General.

March 15, 1926

INHERITANCE TAX—STATE OF COLORADO APPLICATION OF RATES TO VALUE OF INHERITANCE

Note: When there is an exemption this table applies to tax on property in excess of same.

Class of Relationship.	Exemptions	Up to \$5,000	\$5,000 to \$10,000	\$10,000 to \$25,000	\$25,000 to \$50,000	\$50,000 to \$100,000	\$100,000 to \$150,000	\$150,000 to \$250,000	\$250,000 to \$500,000	Over \$500,000
Direct Heirs—Father, mother, husband, wife, child, adopted child or any lineal descendant of same.	Widow \$20,000 All others \$10,000		2%			3%	4%	5%	6%	7%
Wife or widow of son, husband or widower of daughter, grandparent, brother, sister, mutually acknowledged child.	Each \$2,000	3%		4%	5%	6%	7%		8%	10%
Uncle, aunt, nephew or niece, or any lineal descendant of same.	None. Less than \$500. No tax.	4%	5%	6%	8%		10%		12%	14%
Strangers, all others.	None. Less than \$500. No tax.	7%	8%	9%	10%		12%		14%	16%

TRANSFERS NOT TAXABLE—All transfers of property to the State of Colorado, or to any city, town, or any other municipality or for the use of public libraries, for religious or charitable purposes exclusively, or for schools or colleges not for profit, when situated or the property be limited for use within the State of Colorado.

NOTE—In all classes the highest rate applies on the entire amount transferred, as for example, when the transfer to direct heirs in excess of exemption exceeds \$50,000 and not over \$100,000 the 3% rate applies on the entire amount. When it exceeds \$100,000 and not over \$150,000 the 4% rate applies on the entire amount, etc.

Rates and exemptions apply to each beneficiary and not to the estate as a whole.

EXAMPLES OF THE USE OF THE TABLES ON THE NEXT SUCCEEDING PAGE—A will gives to the widow an estate for life amounting to \$75,000 with remainder over to a son—using the age of the widow as 49 years. In column No. 3 opposite 49 in column No. 1 you will find the figures 11.90076, which is the present value of \$1.00 at 5% paid annually to a person 49 years of age. The Inheritance tax law says to use 5% as the income rate. First multiply \$75,000 by 5%, which is \$3,750.00, the income for each year, then multiply \$3,750.00 by 11.90076, which is \$44,627.85, the value of the life interest to the widow. To find the remainder interest subtract \$44,627.85 life interest from \$75,000.00. A will gives to a wife an estate of \$40,000 in trust for ten years, she receiving the income during this period with the remainder to a son in fee. In column No. 4 opposite 10 in column No. 1 you will find the figures 7.721733, which is the present value of \$1.00 at 5% annually for a term of 10 years. The Inheritance Tax law says to use 5% as the income rate. First multiply \$40,000 by 5%, which is \$2,000.00, the income for each year, then multiply \$2,000.00 by 7.721733, which is \$15,443.46, the value of this estate in trust for 10 years. To find his remainder interest subtract \$15,443.46 from \$40,000.00.

TABLE FOR COMPUTING LIFE ESTATES AND TERMS OF YEARS FOR PURPOSE OF TAXATION

Age with columns No. 2 and No. 3, also number of years with column No. 4.	1	2	3	4
1	48.72	16.504475	1.859381	20.20
2	48.09	16.48076	1.859410	19.49
3	47.45	16.41469	2.723348	18.79
4	46.80	16.36642	3.545950	18.09
5	46.15	16.31581	4.329476	17.40
6	45.51	16.26274	5.076591	16.72
7	44.86	16.20732	5.788372	16.09
8	44.20	16.14963	6.46331	15.39
9	43.53	16.08979	7.107320	14.74
10	42.87	16.02812	7.721733	14.10
11	42.20	15.96484	8.306412	13.47
12	41.53	15.89949	8.862343	12.86
13	40.86	15.83252	9.393249	12.26
14	40.19	15.76438	9.898370	11.67
15	39.51	15.69524	10.379853	11.10
16	38.84	15.62432	10.837965	10.54
17	38.17	15.55183	11.274064	9.97
18	37.50	15.47797	11.689835	9.47
19	36.83	15.40282	12.086319	8.97
20	36.16	15.32658	12.463208	8.47
21	35.49	15.24937	12.821150	7.97
22	34.82	15.17129	13.163000	7.47
23	34.15	15.09244	13.488871	6.97
24	33.48	15.01297	13.798639	6.47
25	32.81	14.93288	14.093342	5.97
26	32.14	14.85216	14.376183	5.47
27	31.47	14.77083	14.648031	4.97
28	30.80	14.68891	14.909125	4.47
29	30.13	14.60645	15.141071	3.97
30	29.46	14.52357	15.352448	3.47
31	28.79	14.44027	15.5482807	2.97
32	28.12	14.35656	15.732873	2.47
33	27.45	14.27244	15.902846	1.97
34	26.78	14.18792	16.062846	1.42
35	26.11	14.10300	16.212901	1.39
36	25.44	14.01767	16.3574191	1.36
37	24.77	13.93194	16.496848	1.33
38	24.10	13.84581	16.631284	1.30
39	23.43	13.75928	16.7515037	1.27
40	22.76	13.67235	16.867889	1.24
41	22.09	13.58502	16.98092	1.21
42	21.42	13.49729	17.077037	1.18
43	20.75	13.40916	17.159083	1.15
44	20.08	13.32063	17.2294365	1.12
45	19.41	13.23170	17.293205	1.09
46	18.74	13.14237	17.350909	1.06
47	18.07	13.05264	17.402970	1.03
48	17.40	12.96251	17.449067	1.00
49	16.73	12.87198	17.490012	0.97
50	16.06	12.78105	17.525928	0.94
51	15.39	12.68972	17.556807	0.91
52	14.72	12.59800	17.582650	0.88
53	14.05	12.50588	17.603467	0.85
54	13.38	12.41336	17.619249	0.82
55	12.71	12.32044	17.630996	0.79
56	12.04	12.22712	17.638719	0.76
57	11.37	12.13340	17.642419	0.73
58	10.70	12.03928	17.643096	0.70
59	10.03	11.94476	17.640751	0.67
60	9.36	11.84984	17.635396	0.64
61	8.69	11.75452	17.627043	0.61
62	8.02	11.65880	17.615692	0.58
63	7.35	11.56268	17.601347	0.55
64	6.68	11.46616	17.584009	0.52
65	6.01	11.36924	17.563678	0.49
66	5.34	11.27192	17.540354	0.46
67	4.67	11.17420	17.514037	0.43
68	4.00	11.07608	17.484729	0.40
69	3.33	10.97756	17.452430	0.37
70	2.66	10.87864	17.418143	0.34
71	1.99	10.77932	17.381868	0.31
72	1.32	10.67960	17.343605	0.28
73	0.65	10.57948	17.303354	0.25
74	0.00	10.47896	17.261117	0.22
75	0.00	10.37804	17.216894	0.19
76	0.00	10.27672	17.170685	0.16
77	0.00	10.17500	17.122490	0.13
78	0.00	10.07288	17.072317	0.10
79	0.00	9.97036	17.020166	0.07
80	0.00	9.86744	16.966040	0.04
81	0.00	9.76412	16.910949	0.01
82	0.00	9.66040	16.854883	0.00
83	0.00	9.55628	16.797842	0.00
84	0.00	9.45176	16.739826	0.00
85	0.00	9.34684	16.680835	0.00
86	0.00	9.24152	16.620869	0.00
87	0.00	9.13580	16.559927	0.00
88	0.00	9.02968	16.498009	0.00
89	0.00	8.92316	16.435115	0.00
90	0.00	8.81624	16.371246	0.00
91	0.00	8.70892	16.306402	0.00
92	0.00	8.60120	16.240583	0.00
93	0.00	8.49308	16.173799	0.00
94	0.00	8.38456	16.106041	0.00
95	0.00	8.27564	16.037319	0.00
96	0.00	8.16632	15.967643	0.00
97	0.00	8.05660	15.897023	0.00
98	0.00	7.94648	15.825459	0.00
99	0.00	7.83596	15.752951	0.00
100	0.00	7.72504	15.679499	0.00

Note: See preceding page for examples as to the use of the above table.

INHERITANCE TAX LAW

State of Colorado.

AN ACT

TO ESTABLISH AND IMPOSE A TAX ON TRANSFERS OF PROPERTY BY INHERITANCE AND INTESTATE LAWS OF THE STATE, BY WILL, OR GIFT OR INSTRUMENT MADE IN CONTEMPLATION OF DEATH OR INTENDED TO TAKE EFFECT IN POSSESSION OR ENJOYMENT AT OR AFTER THE DEATH OF THE MAKER THEREOF, PROVIDING FOR THE COLLECTION OF SUCH TAX, DEFINING AND PROVIDING FOR OFFENSES IN RELATION THERETO, MAKING AN APPROPRIATION TO CARRY OUT THE PROVISIONS THEREOF, AND REPEALING ALL ACTS OR PARTS OF ACTS IN CONFLICT THEREWITH.

Be it Enacted by the General Assembly of the State of Colorado:

Definitions—"Estate" and "Property," "Transfer,"
"Decedent," "Residence."

Section 1. (1) This act shall be known as the "Inheritance Tax Act."

(2) The words "estate" and "property" as used in this Act shall be taken to mean the real and personal property or interest therein or income therefrom of the testator, intestate, grantor, bargainor, vendor or donor passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donee, vendees or successors, and shall include all personal property within or without the State.

"Estate" and
"Property"
defined.

(3) The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein or income therefrom, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner herein described.

"Transfer"
defined.

(4) The word "decedent" as used in this act shall include the testator, intestate, grantor, bargainor, vendor or donor.

"Decedent"
defined.

What constitutes "residence" within meaning of Inh. Tax Law.

Non-residence must be proved by those claiming exemption

(5) For any and all purposes of this Act and for the just imposition of the inheritance tax, every person shall be deemed to have died a resident and not a non-resident, of the State of Colorado, if and when such person shall have dwelt or shall have lodged in this State during and for the greater part of any period of twelve consecutive months in the twenty-four months next preceding his or her death; and also if and when by formal written instrument executed within one year prior to his or her death or by last will he or she shall have declared himself or herself to be a resident or a citizen of this State, notwithstanding that from time to time during such twenty-four months such persons may have sojourned outside of this State and whether or not such person may or may not have voted or have been entitled to vote or have been assessed for taxes in this State; and also if and when such person shall have been a citizen of Colorado, sojourning outside of this State. The burden of proof in an inheritance tax proceeding shall be upon those claiming exemption by reason of the alleged non-residence of the deceased. The wife of any person who would be deemed a resident under this section shall also be deemed a resident and her estate subject to the payment of an inheritance tax as herein provided, unless said wife has a domicile separate from him.

Transfers That Are Taxable—Rates of Taxation and Classification—Exemption.

Property taxable.

Section 2. A tax shall be and is hereby imposed upon the transfer of any property, real, personal or mixed, or of any interest therein or income therefrom, in trust or otherwise, to any person or persons, institution or corporation, except as hereinafter exempted, in the following cases:

Transfer by a resident.

A. When the transfer is by will or by intestate laws of this State, from any person dying seized or possessed of any such property while a resident of the State.

Transfer by a non-resident.

B. When the transfer is by will or intestate laws of property within the State and the decedent was a non-resident of the State at the time of his death.

Transfer of property made in contemplation of death.

C. When the transfer is made by a resident or by a non-resident when such non-resident's property is within this State, by deed, grant, bargain, sale, assignment, gift or contract, in contemplation of the death of the grantor,

vendor, assignor or donor, or intended to take effect in possession or enjoyment at or after such death; PROVIDED, that any such gift, or any such deed, grant, bargain, sale, assignment or contract without valuable and adequate consideration (i. e., a consideration equal in money or moneys worth to the full value of the property transferred) made within one year prior to the death of the decedent shall be deemed and held to have been made in contemplation of the death of the decedent.

The words "contemplation of death" as used in this Act, shall be taken to include that expectancy of death which actuates the mind of a person on the execution of his will, and in nowise shall said words be limited and restricted to that expectancy of death which actuates the mind of a person making a gift *causa mortis*; and it is hereby declared to be the intent and purpose of this Act to tax any and all transfers which are made in lieu of or to avoid the passing of property transferred by testate or intestate laws.

"Contemplation of death" defined.

D. When any person, institution or corporation becomes beneficially entitled in possession or expectancy to any property or the income therefrom, by any such transfer, whether made before or after the passage of this Act.

E. Whenever any person, institution or corporation shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this Act, such appointment, when made, shall be deemed a taxable transfer under the provisions of this Act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power and had been bequeathed or devised by such donee by will; and whenever any person, institution, or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under the provisions of this Act shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure.

Power of appointment—when taxable.

Failure to exercise—when taxable.

F. Whenever any property, real or personal, is held in the joint names of two or more persons, or as tenants

Joint estates, accounts, etc., taxable unless survivor proves ownership to a share.

by the entirety, or is deposited in banks or other institutions or depositories in the joint names of two or more persons, and payable to either or the survivor, upon the death of one of such persons the right of the surviving tenant by the entirety, joint tenant or tenants, person or persons to the immediate ownership or possession and enjoyment of such property shall be deemed a transfer taxable under the provisions of this Act in the same manner as though the whole property to which such transfer relates belonged absolutely to the deceased tenant by the entirety, joint tenant or joint depositor and had been devised or bequeathed to the surviving tenant by the entirety, joint tenant or joint depositor, person or persons, by will, excepting therefrom such part thereof as may be proved by the surviving tenant by the entirety, joint tenant or tenants to have originally belonged to him, her or them, and never to have belonged to the decedent.

Property transferred subject to charges, etc., determinable upon death—when taxable.

G. Where any property shall be transferred subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase occurring to any person or corporation upon the extinction or determination of such charge, estate or interest, shall be deemed a transfer of property taxable under the provisions of this Act in the same manner as though the person or corporation beneficially entitled thereto had acquired such increase from the person from whom the title to their respective estates or interests is derived.

When executor's commissions or allowances are taxable.

H. Wherever a decedent appoints one or more executors or trustees, and in lieu of their allowances or commissions, 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 what would be a reasonable compensation for their services, such excess over and above the exemptions hereinafter provided for shall be liable to said tax, and the court having jurisdiction of their accounts, upon its own motion, or on the application of the Attorney General, shall fix such compensation.

First classification—Father, mother, husband, wife, child, adopted child, lineal descendant.

When the beneficial interest in any property or income therefrom shall pass to or for the use of any father, mother, husband, wife, child, or any child or children adopted as such in conformity with the laws of the State of Colorado, or to any lineal descendant of such decedent

born in lawful wedlock, in every such case the rate of such tax shall be two dollars on every one hundred dollars of the clear market value of such property received by each person on all amounts not exceeding fifty thousand dollars; on all such transfers exceeding fifty thousand dollars and not exceeding one hundred thousand dollars, the rate of tax shall be three dollars on every one hundred dollars of the clear market value of such property received by each person; on all such transfers exceeding one hundred thousand dollars and not exceeding one hundred fifty thousand dollars, the rate of tax shall be four dollars on every one hundred dollars of the clear market value of such property received by each person; on all such transfers exceeding one hundred fifty thousand dollars and not exceeding two hundred fifty thousand dollars, the rate of tax shall be five dollars on every one hundred dollars of the clear market value of such property received by each person; on all such transfers exceeding two hundred fifty thousand dollars and not exceeding five hundred thousand dollars, the rate of tax shall be six dollars on every hundred dollars of the clear market value of such property received by each person; on all such transfers exceeding five hundred thousand dollars the rate of taxation shall be seven dollars on every one hundred dollars of the clear market value of such property received by each person; PROVIDED, that any such gift, legacy, inheritance, transfer, appointment or interest vesting in perpetuity which may be valued at a less sum than ten thousand dollars shall not be subject to any such duty or taxes, and the tax to be levied in the above cases vesting in perpetuity only upon the excess of ten thousand dollars received by each person.

Rates of tax.

Exemption of \$10,000 to first class.

PROVIDED, FURTHER, that any such gift, legacy, inheritance, transfer, appointment or interest vesting in perpetuity which may be valued at a less sum than twenty thousand dollars, so passing to a wife, shall not be subject to any such duty or taxes, and the tax to be levied in the above case vesting in perpetuity only upon the excess of twenty thousand dollars received by such person.

Exemption of \$20,000 to widow.

When the beneficial interest in any property or income therefrom shall pass to or for the use of the wife or widow of the son, or the husband or widower of the daughter, or the grandfather or grandmother, or to any brother or sister, or to any person to whom the deceased, for not less than ten years prior to death, stood in the

Second Class—
wife or widow
of son, hus-
band or wid-
ower of daugh-
ter, grand-
father, grand-
mother, broth-
er, sister,
mutually ac-
knowledged
child.

Rates of tax.

Exemption of
\$2,000.

mutually acknowledged relation of a parent; PROVIDED, HOWEVER, such relationship began at or before said person's fifteenth birthday and was continuous for ten years thereafter; and, PROVIDED, ALSO, that, except in the case of a stepchild, the parents of such person so standing in such relation shall be deceased when such relationship commenced, in every such case the rate of such tax shall be three dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received does not exceed the sum of ten thousand dollars, and four dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of ten thousand dollars and does not exceed the sum of twenty-five thousand dollars of the clear market value of such property received by each person; and five dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of twenty-five thousand dollars and does not exceed the sum of fifty thousand dollars; and six dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of fifty thousand dollars and does not exceed the sum of one hundred thousand dollars; and seven dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of one hundred thousand dollars and does not exceed the sum of two hundred fifty thousand dollars, and eight dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of two hundred fifty thousand dollars and does not exceed the sum of five hundred thousand dollars; and ten dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of five hundred thousand dollars; PROVIDED, that any such gift, legacy, inheritance, transfer, appointment or interest vesting in perpetuity which may be valued at a less sum than two thousand dollars shall not be subject to any such duty or taxes, and the tax is to be levied in such cases vesting in perpetuity only upon the excess of two thousand dollars received by each person.

When the beneficial interest in any property or income therefrom shall pass to or for the use of any uncle,

aunt, niece or nephew or any lineal descendant of the same, in such case the rate of such tax shall be four dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received does not exceed the sum of five thousand dollars; and five dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of five thousand dollars and does not exceed the sum of ten thousand dollars; and six dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of ten thousand dollars and does not exceed the sum of twenty-five thousand dollars; and eight dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of twenty-five thousand dollars and does not exceed the sum of one hundred thousand dollars; and ten dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of one hundred thousand dollars and does not exceed the sum of two hundred fifty thousand dollars; and twelve dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of two hundred fifty thousand dollars and does not exceed the sum of five hundred thousand dollars; and fourteen dollars on every one hundred dollars of the clear market value of such property received by each person when the amount so received exceeds the sum of five hundred thousand dollars.

Third Classification—Uncle, aunt, niece, nephew or lineal descendant of same.

Rates of tax.

When the beneficial interest in any property or income therefrom shall in any case not enumerated above pass to or for the use of any person, co-partnership, association, institution, private, public or quasi-public corporation, the rate of such tax shall be as follows: On each and every one hundred dollars of the clear market value of all property and at the same rate for any less amount on all transfers not exceeding five thousand dollars, seven dollars; on all transfers over five thousand dollars and not exceeding ten thousand dollars, eight dollars; on all transfers over ten thousand dollars and not exceeding twenty-five thousand dollars, nine dollars; on all transfers over twenty-five thousand dollars and not exceeding one hundred thousand dollars, ten dollars; on all transfers over one hundred thousand dollars and not

Fourth Classification—All other beneficiaries.

Rates of tax.

exceeding two hundred fifty thousand dollars, twelve dollars; on all transfers over two hundred fifty thousand dollars and not exceeding five hundred thousand dollars, fourteen dollars; on all transfers over five hundred thousand dollars, sixteen dollars.

Transfers under \$500 subject to no tax.

PROVIDED, that any gift, legacy, inheritance, transfer, appointment or interest which may be valued at a less sum than five hundred dollars shall not be subject to any duty or tax.

Life Estates—Time of Appraisal—May Elect Not to Pay Until Actual Possession—Bond.

Life estates and terms for years.

Time of appraisal and method of determining value of same.

Tax due and payable at death, except when transfer made in contemplation of death.

May give bond for taxes until in actual possession of property.

Section 3. When any property or interest therein or income therefrom shall pass or be limited for the life of the beneficiary or for the life of another, or for a term of years, or to terminate on the expiration of a certain period, the property of the decedent so passing shall be appraised immediately after the death of the decedent, and the value of the said life estate, term of years, or period of limitation shall be fixed upon mortality tables, using the interest rate or income rate of five per cent; and the value of the remainder in said property so limited shall be ascertained by deducting the value of life estate, term of years, or period of limitation from the fair market value of the property so limited, and the tax on the several estate or estates, remainder or remainders, or interests shall be immediately due and payable, together with interest thereon, except, however, in cases where property is transferred by deed, grant or gift made in contemplation of death, in which event the tax thereon shall be due and payable at the time of such transfer; PROVIDED, that if the person or persons, body politic or corporate, beneficially interested in property chargeable with said tax, elect not to pay the same until they shall come into actual possession or enjoyment of such property, then in that case said person or persons, or body politic or corporate, shall give bond to the People of the State of Colorado in a penal sum three times the amount of the tax arising from such property, with such sureties as the County Judge may approve, conditioned for the payment of the said tax and interest thereon at such time or period as they or their representatives may come into the actual possession or enjoyment of said property; which bond shall be filed in the office of the County Judge of the proper County; PROVIDED, FURTHER,

that such person or persons, body politic or corporate, shall make a full verified return of said property to said County Judge and file the same in his office within one year from the death of the decedent, with the bond as above provided; and further, said person or persons, body politic or corporate shall renew said bond every five years after the date of the death of the decedent.

Bond to be renewed every five years.

ESTATES ON CONTINGENCIES—APPRAISEMENTS.

Section 4. When property is transferred or limited in trust or otherwise and the rights, interest or estates of the transferees or beneficiaries are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon said transfer at the highest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of this Act, and such tax so imposed shall be due and payable forthwith by the executors or trustees out of the property transferred.

Transfers on contingencies or conditions.

Tax at highest rate.

Estates or interests in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken, as in this section or in section three hereof provided, or where the taxation thereof has been held in abeyance, shall be appraised at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for the purpose of taxation, upon which said estate or interests in expectancy may have been limited.

Estates in expectancy.

Appraised at full value.

Where an estate for life or for years can be divested by the Act or omission of the legatee or devisee, it shall be taxed as if there was no possibility of such divesting.

No divesting of estates.

Property Exempt from Tax.

Section 5. The following transfers of property shall be exempt from the inheritance tax, to-wit: All transfers of property to the State of Colorado, or to any County, City, Town or any other municipality, or for the use of public libraries, for religious or charitable purposes exclusively, or for schools and colleges not for profit; PROVIDED, HOWEVER, that the same be situated within this State, or the property be limited for use within this State.

Transfers entirely exempt from tax.

**Taxes Due at Death—Discount Within Six Months—
When Interest Begins.**

Taxes due at death.

5% discount within six months.

10% interest in one year.

Failure to pay within one year shall give bond.

Section 6. All taxes imposed by this Act shall be due and payable at the death of the decedent, except as hereinbefore provided. If such tax is paid within six months from the accruing thereof, a discount of five per cent shall be allowed and deducted therefrom. If such tax is not paid within one year from the accruing thereof, interest shall be charged and collected thereon at the rate of ten per cent per annum from the time the tax accrued. In all cases where the executors, administrators or trustees do not pay such tax within one year from the death of the decedent, they shall upon petition of the Attorney General to the County Court, be required to give a bond in the form and in the effect prescribed in Section three of this Act, for the payment of said tax, together with interest.

**Tax a Lien—Recording—Enforcement of Law by
Attorney General.**

Tax a lien.

Procedure in case of bona fide purchaser.

Recording of order of County Court serves as notice.

Attorney General may enforce lien.

Section 7. Every tax imposed by this Act shall be and remain a lien upon the property passed and transferred until paid, except where the transfer is by deed or grant in the hands of a bona fide purchaser or incumbrancer without notice. In such case a certified copy of the application for probate of the will or estate of the decedent or a copy of the order of the County Court assessing the inheritance tax may be recorded in the office of the County Clerk of the county where any real property described therein is situated, which record shall thereafter be deemed to be a notice of such taxes to a subsequent purchaser and incumbrancer of such real property, which record may be discharged by recording the receipt of the State Treasurer to that effect. The person to whom the property passes or is transferred and all executors, administrators and trustees shall be personally liable for the payment of all such taxes and interest and where proceedings for collection of taxes assessed shall be had, said executors, administrators and trustees shall be personally liable for the expenses, costs and fees of collection.

In all cases where any tax has become, or shall hereafter become a lien upon any property under or by virtue of any of the provisions of this Act, the Attorney General may, whenever any property of said estate has been distributed without the payments to the State of all or

any part of the tax payable on account thereof under this Act, or any former Act, bring and prosecute an action or actions in the name of the State as plaintiff for the purpose of enforcing such lien or liens against all or any of the property subject thereto. In any such action the owner of any property, or of any interest in the property, against which the lien of any such tax is sought to be enforced, and any predecessor in interest of any such owner whose title or interest was deraigned through any such decedent by will or succession or by decree of distribution of the estate of such decedent or any lien or incumbrance subsequent to the lien of such tax, may be made a party defendant.

Who may be
made party
defendant.

Executor Deduct Tax—No Distribution Until Paid.

Section 8. Any administrator, executor, or trustee having any charge or trust in legacies or property for distribution subject to the said tax, shall deduct the tax therefrom, or if the legacy or property be not money, he shall collect a tax thereon upon the appraised value thereof from the legatee or person entitled to such property, and he shall not deliver or be compelled to deliver any specific legacy or property subject to tax to any person until he shall have collected the tax thereon, and whenever any such legacy shall be charged upon or payable out of real estate, the executor, administrator or trustee, before paying the same shall deduct said tax therefrom and pay the same to the State Treasurer, and the same shall remain a charge on such real estate until paid and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that the payment of said legacies might be enforced; if, however, such legacy be given in money to any person for a limited period, the administrator, executor or trustee shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court 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 legatees, and for such further order relative thereto as the case may require. All administrators, executors, or trustees shall have full power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as they may be enabled to do by law, for the payment of debts of their testators and intestates, and the amount of said tax shall be paid as hereinafter directed.

Executor shall
deduct tax.

No distribution
until tax is
paid.

Executor has
power to sell
to pay tax.

Executor Pay State Treasurer—No Final Account Accepted Until Tax Is Paid.

Executor shall pay State Treasurer.

No final account allowed until tax is paid or waived or bond provided.

Section 9. Every sum of money retained by an executor, administrator or trustee, or paid into his hands for any tax under this Act, shall be paid by him within thirty days thereafter to the State Treasurer, who shall give him receipts for such payments which shall be proper vouchers in the settlement of the accounts of such executor, administrator or trustee and no estate shall be distributed nor shall any final account of any executor, administrator or trustee be accepted or allowed by the County Court unless such account shows, and the Judge of said court finds, that all taxes with interest thereon imposed by the provisions of this Act upon any property or interest therein belonging to the said estate to be settled by said account and already payable, have been paid, and that all taxes which may become due on said estate have been paid or settled as hereinbefore provided, or that the payment thereof to the State is secured by bond or has been duly waived in the manner provided for in this Act. The receipt of the State Treasurer for the amount of the tax shall be conclusive as to the proof of the payment of such tax.

County Court Orders Payment of Tax.

Tax collectable only on order of County Court.

Fees of Clerk of County Court.

Section 10. No tax shall in any case be collected by or paid to the State Treasurer except upon and in accordance with an assessment order issued from the proper County Court. No fees shall be charged against the representatives of the State of Colorado, or against any person otherwise than as herein provided, but the Clerk of the County Court shall tax the sum of fifty cents for each entering of an assessment order and five cents for each notice of assessment order mailed, as costs in the estate in such case in which the estate in which a tax is due is undergoing administration in the County Court; and in addition thereto shall charge such fees for recording, when such is proper, as may be provided by law in other cases. If the estate is not undergoing administration, no fees shall be charged, unless objections are filed and further proceedings had upon them. In every case in which objections are filed, and further proceedings had, costs shall be taxed against the persons objecting, except the State as in ordinary civil actions. In special proceedings occurring under Section 18 of this Act, costs shall be assessed as in ordinary civil actions against the persons in default, excepting the State.

**Executor File Sworn Statement With Attorney General—
Extension of Time Granted in Certain Cases.**

Section 11. Every administrator, executor or trustee of the estate of a decedent who was at the time of his death a resident of this State, shall within three months after the date of his appointment, file with the Attorney General a sworn statement of all property, real, personal or mixed, and of any and all interests therein, owned by the said decedent at the time of his death, and of all such property and interest, if any, transferred by said decedent in his life time, by deed, grant, bargain, sale or gift, made in contemplation of death, of such decedent, or intended to take effect in possession or enjoyment at or after such death, so far as the same shall have come to the knowledge of such administrator, executor or trustee. Any person swearing to such statement knowing the same to be false, shall be deemed guilty of perjury and upon conviction thereof shall be punished accordingly.

Sworn statement to be filed with Attorney General within three months.

Penalty for false statement.

Whenever, by reason of the complicated nature of an estate or by reason of the confused condition of the decedent's affairs, it is impracticable for the executor, administrator or trustee of said estate to file with the Attorney General a full, complete and itemized inventory of the property belonging to the estate within the time hereinbefore required, the Attorney General may, upon application of such representative or parties interested, extend the time for filing the statement for a period not to exceed six months, beyond the time fixed by law, or such further time as may be necessary upon good cause shown.

Extension of time—when granted.

Transfer of Stock Subject to Tax—Notice to Commissioner—When Corporation Liable—"Corporation" and "Assets" Defined—Examination Fee.

Section 12. If an executor, administrator or trustee shall assign or transfer any stock or obligations of any domestic or foreign corporation doing business within this State, standing in the name of, or in trust for a decedent, resident or non-resident, or belonging to or standing in the joint name of such a decedent and one or more persons, not exempt from taxation under section two hereof, the tax shall be paid to the State Treasurer on the transfer thereof. No corporation or other institution, person or persons, holding or controlling the transfer of securities or assets of a decedent, resident or non-resident, nor any corporation in which such decedent held stock

Assignment or transfer of corporation stocks by executor, etc.

Transfer of assets prohibited unless notice served upon Attorney General.

Must retain sufficient to pay tax.

Penalty.

Payment of tax may be enforced by Attorney General.

"Corporation" defined.

"Securities or Assets" defined

at the time of his decease, shall deliver or transfer the same to the executors, administrators, trustees, heirs or legatees of said decedent or to the survivor or survivors when held in the joint names of a decedent and one or more persons, upon their order or request unless notice in writing of the time and place of such intended transfer or delivery be served upon the commissioner appointed under this Act at least ten days prior to such transfer or delivery; nor shall any corporation, institution, person or persons, transfer or deliver any securities or assets of the estate of a decedent without first obtaining the written consent thereto of the Attorney General, who shall as a condition of such consent, require that a sufficient amount or portion of such securities or assets be retained to pay any tax, and the interest thereon, which may thereafter be assessed upon the transfer of such property under the provisions of this Act or any amendment thereof. And it shall be lawful for the said commissioner or Attorney General to examine said securities or assets at the time of such delivery or transfer. Failure to serve such notice or to allow such examination or to retain a sufficient portion or amount to pay such tax and interest as herein provided, shall render such corporation or other institution, person or persons, liable to the payment of the tax and interest due upon the transfer of said securities or assets, in pursuance of the provisions of this Act and in addition thereto, or in the absence of any tax, to a penalty of one thousand dollars. The payment of such tax and interest and penalty, or either, may be enforced against the corporation, institution or person in the same way as the liability of legatees, or legal representatives, or may be collected by a civil action by the Attorney General brought in any court of competent jurisdiction. The terms "corporation" and "institution" are defined to include corporations generally, foreign or domestic, which are qualified to do business in this State, and also all banks, trust companies, safe deposit companies, or other corporate or non-corporate institutions occupying fiduciary relations. The term "securities or assets" shall include stocks, bonds, notes, securities, choses in action, and other personal property, or the evidences thereof; and as applied to banks or similar organizations or persons, shall include deposits or other funds or papers held in storage, deposit or trust; and as to safe deposit companies, the contents or control of safe deposit boxes, and as to corporations or institutions generally, shall include shares in, or registered bonds of, or other

interests, in the corporation or institution transferring. Assets or securities, including safe deposit boxes, shall be considered the property of the decedent if held by him jointly with one or more other persons, or in any other qualified or limited sense, so long as the ownership possesses a pecuniary or proprietary value.

A fee of ten dollars shall be charged and collected for each such examination, whether such transfer be found to be taxable or not, PROVIDED, that only one such fee shall be charged against any estate. Said fee shall be paid into the Inheritance Tax Fund.

Fee for examination.

Inheritance Tax Commissioner—Qualifications—Deputies and Appraisers—Bond—Duties—Powers—Reports to County Court—Proper Deductions—Procedure in County Court—Appeals—Actions to Remove Lien of Inheritance Tax.

Section 13. For the purpose of facilitating the collection of said inheritance tax and in order to fix the value of the property of persons whose estates shall be subject to the payment of said tax, there is hereby created the office of Inheritance Tax Commissioner, which shall be filled by appointment by the Attorney General, of an attorney at law licensed to practice in this State, and who shall have been actually engaged therein in the practice of law for not less than five years last preceding the date of his appointment. Said Inheritance Tax Commissioner shall be an assistant to the Attorney General, charged with the special duty of representing him in all matters connected with the administration and enforcement of the provisions of this Act, and shall hold his office at the pleasure of the Attorney General. Said Inheritance Tax Commissioner shall appoint two deputy inheritance tax commissioners, two inheritance tax appraisers, a clerk and two stenographers who shall devote their entire time to the performance of the duties of said office. Said Commissioner shall also have power and he may, with the consent of the Attorney General and the approval of the State Civil Service Commission, employ such other assistant or assistants as from time to time may become necessary to the proper conduct and administration of his office.

Office of Inheritance Tax Commissioner created.

Appointed by Attorney General.

Qualifications.

Deputy Inheritance Tax Commissioners.

Clerks, Stenographers.

Special Assistants.

The Inheritance Tax Commissioner, Deputy Inheritance Tax Commissioners and the Inheritance Tax Appraisers shall each receive in addition to their annual salary as fixed by law their actual and necessary travel-

State Treasurer shall pay witness fees, expenses, etc., out of Inheritance Tax fund.

Auditor to draw warrants.

Commissioners, deputies and appraisers shall give bond and take oath of office.

Commissioner shall appraise property.

Notice to be given.

May subpoena witnesses.

Reports to County Court and Attorney General.

ing expenses and witness fees. The State Treasurer shall pay the said necessary traveling expenses of the Inheritance Tax Commissioner, Deputy Inheritance Tax Commissioners and Inheritance Tax Appraisers and witness fees and the necessary and incidental expenses connected with the business, conduct and equipment of the office of the Inheritance Tax Commissioner and the compensation and expenses of said additional assistants as above authorized, monthly out of the funds in his hands or custody on account of the inheritance tax, and he shall retain out of any funds in his hands received from said inheritance tax, a sufficient fund at all times to pay the said expenses, compensation and for such equipment; and a continuing appropriation from said funds is hereby made for the purpose of paying such expenses, compensation and for such equipment. The State Auditor is authorized to issue a warrant upon the State Treasurer upon presentation to him of a voucher signed by the Attorney General for the amount of said expenses, compensation and for such equipment.

Said Inheritance Tax Commissioner and each of his said deputies and each of said appraisers shall file with the Secretary of State his oath of office and official bond in the penal sum of not less than one thousand dollars, and not more than twenty thousand dollars in the discretion of the Attorney General, conditioned on the faithful performance of his duties as such Inheritance Tax Commissioner or deputy or appraiser, which bonds shall be approved by the Attorney General.

It shall be the duty of the Inheritance Tax Commissioner, as often as, or whenever occasion may require, or upon the motion of any person interested in the estate, to appraise the estate of any deceased person upon which letters of administration or letters testamentary have issued, forthwith giving notice by mail to all persons known to have, or claim, an interest in said property, and to such persons as the County Judge may by order direct of the time and place at which he will appraise such property, and at such time and place to appraise the same at a fair market value, and for that purpose the Commissioner and each of his deputies is authorized, to issue subpoenas for, and compel the attendance of, witnesses before him, and to take the evidence of such witnesses under oath concerning such property and the value thereof, and he shall make a report in duplicate thereon in writing to the County Court and to the Attorney General showing the fair market value of all of the estate

belonging to the deceased at the time of his death and the description of the same, all debts, claims, fees and commissions, including the fees and commissions, of the executor and administrator, provided, that when such executor or administrator is a legatee, devisee or beneficiary, such fees and commission shall not be considered a proper claim or deduction when such amount received as a beneficiary is in excess of a reasonable fee and commission; when such reasonable fee or commission would be of a greater amount than the administrator or executor received as a beneficiary then the amount in excess of the sum so received as a beneficiary shall be deducted when same shall have been filed against said estate or allowed by the Court, PROVIDED further, that statutory allowances authorized by Section 7223 of the Revised Statutes of 1908, and Section 7056 of the Compiled Statutes of Colorado, 1921, and the Federal Estate Tax and the Inheritance or Transfer Tax of any state shall not be considered a proper claim or deduction in computing the value of the estate of a decedent, the names, relationship, and residence of all persons, corporations or institutions, receiving or claiming any of the estate of the deceased, a description of any property belonging to the estate of said decedent alleged to have been transferred by deed, grant, sale or gift made in contemplation of death by the said decedent, or intended to take effect in possession or enjoyment after such death, a description of all estates left by said decedent whether an estate in fee, annuities, life estates, or for a term of years, whether such decedent died intestate or left a will; and such other facts in relation thereto, together with the depositions of the witnesses examined, as the County Court, may by order, require to be filed in the office of the Clerk of said County Court; and from this report the said County Court shall forthwith enter an order fixing the then cash value of the property of such estate and of the interest therein passing to each person, corporation or institution under the will or by descent and the tax to which the same is liable, and shall immediately give notice by mail to all parties known to be interested therein.

Any person or persons, including the Attorney General, dissatisfied with the assessment made or tax fixed by the County Court in the estate of the decedent may object thereto, either upon the ground of erroneous valuation, appraisement or assessment, or otherwise, by a written objection filed in the County Court within sixty days after the making of the assessment order. The County

Proper deductions.

When Executor's fees is not a proper deduction.

Widow's allowance.

Federal Estate tax and Inheritance Tax of another State, not a proper deduction.

County Court shall fix cash values of estates.

Interested parties may object to tax fixed by County Court within 60 days.

Hearing upon objection.

Witnesses and witness fees.

Appeals to District Court.

Action may be brought to quiet title against claim of lien of Inheritance Tax.

Parties to suit.

Summons to be served upon Attorney General.

Affirmative relief to State may be awarded by Court.

Court shall thereupon, after a hearing wherein the Attorney General shall represent the State, modify, review or confirm in whole or in part, the appraisalment and assessment. Witnesses subpoenaed under the provisions of this section shall have such fees as are now provided by law; PROVIDED, that on the petition of the Attorney General and with the consent of the County Court, expert witnesses may be called, the amount of whose fees shall be determined by the County Court.

Any person or persons interested in the estate of a decedent, who may be dissatisfied with the assessment made or tax fixed by the County Court, may at any time within ten days after the entry of judgment upon such objections, appeal therefrom to the District Court of the proper county, upon giving bond to be approved by the County Court conditioned to prosecute said appeal and to pay all costs and whatever taxes shall be fixed by the District Court on appeal. Neither costs nor bonds shall in any case be required from the representatives of, or charged against the State of Colorado.

Actions may be brought against the State by any interested person for the purpose of quieting the title to any property against the lien or claim of lien of any tax or taxes under this Act, or for the purpose of having it determined that any property is not subject to any lien for taxes, nor chargeable with any tax under this Act. No such action shall be maintained where any proceedings are pending in any court in this State wherein the taxability of such transfer and the liability therefor and the amount thereof may be determined. All parties interested in said transfer and in the taxability thereof shall be made parties thereto and any interested person who refuses to join as plaintiff therein may be made a defendant. Summons for the State in said action shall be served upon the Attorney General. Should the court determine that the property described in the complaint is subject to the lien of said tax and that said property has been transferred within the meaning of this Act, the court shall award affirmative relief to the State in said action, and judgment shall be rendered therein in favor of the State, ascertaining and determining the amount of said tax, the person or persons liable therefor, and the property chargeable therewith or subject to lien therefor.

It shall be the duty of said Inheritance Tax Commissioner and each of his said deputies upon learning of the death of any person known or supposed to have died

possessed of property in this State or subject to the tax imposed by this Act, to make an immediate investigation and to inform the Attorney General and the County Court of the County wherein said property is situated or wherein said decedent resided, of any facts learned by him respecting the estate of such decedent.

Commissioner shall make immediate investigation as to value of estates.

Whenever an executor, administrator, trustee or any other person who is liable to taxation under the provisions of this Act refuses or neglects to furnish the Inheritance Tax Commissioner with any information which in the opinion of the Inheritance Tax Commissioner is necessary to the proper computation of the taxes payable by such executor, administrator, trustee or person, after having been requested so to do, the Inheritance Tax Commissioner shall certify such taxes at the highest rate at which they could in any event be computed.

Failure to furnish information to Commissioner by executor—tax to be computed at highest rate.

In case letters testamentary or of administration shall not have been issued upon the estate of any deceased person and the tax provided for herein shall not have been paid to the satisfaction of the Attorney General within sixty days from the date of the death of any deceased person, the County Court having jurisdiction in the matter may grant letters of administration or letters of administration with the will annexed, as the case may be, to any person or persons, upon the application of the Attorney General, PROVIDED, that nothing contained in this provision shall be construed to compel the Attorney General to apply for such appointment, unless he so desires, or to prevent the enforcement of the collection of any tax provided for herein in any other manner as may be provided in this Act or by law.

County Court may grant letters of administration.

Commissioner Certifies Estates Not Subject to Tax—Fees for Waivers.

Section 14. Whenever the Inheritance Tax Commissioner shall, upon investigation, be satisfied that the transfer of any property of a deceased person is not liable to taxation under this Act, he shall, upon the request of the executor, administrator or trustee, make and sign a certificate to that effect which shall be countersigned by the Attorney General and filed with the Clerk of the Court having jurisdiction of the administration of such estate. Such certificate shall be conclusive upon the State as to the liability of said estate to taxation, except as to property subsequently found to belong to said estate, and the court, upon the filing of such certificate shall enter

When Commissioner shall certify if property not liable to tax.

Property subsequently found not exempt from tax.

Fees for
waiver.

an order finding that said estate is not liable to taxation under this Act. A fee of one dollar shall be charged and collected for such certificate in all estates the gross value of which, as reported to said inheritance tax department, equals or is less than five thousand dollars; in all other estates, a fee of five dollars shall be charged and collected for such certificate. Such fees shall be paid into the inheritance tax fund.

Waivers of
appraisement
validated.

All waivers of appraisement by the Attorney General heretofore filed in connection with estates administered before the passage of this Act are hereby validated and declared to have like effect with the certificate provided for by this section.

County Courts May Fix Value of Estates on Failure of Commissioner to Act.

County Courts
may fix value
of estates on
failure of
Commissioner
to act.

Section 15. In case of the failure of the Inheritance Tax Commissioner to make such appraisement of the property of the estate of any decedent or to make and file the certificate provided for in Section 14 of this Act, within one year after the issuance of letters testamentary or letters of administration, PROVIDED, that the Attorney General has received the sworn statement provided for in Section 11 of this Act, the County Court, upon motion of any person interested in said estate, as executor, administrator, trustee, heir, legatee, or devisee, upon giving twenty days' notice by mail to all persons known to be interested in said estate, including the Attorney General and the Inheritance Tax Commissioner, of the time and place of hearing, may at the time so fixed, hear evidence and determine the value of such estate, and the amount of taxes to which the same is liable, with the same effect as if the value of such estate and the fixing of said tax were made upon the report of the Commissioner as provided for in Section 13 of this Act, and appeals from such order may be taken in the same manner as provided by said Section 13.

Commissioner, Deputies, Appraisers, Demanding Fee, Guilty of Felony—Penalty.

Commissioner,
deputies or
appraisers de-
manding a
fee—guilty of
felony.

Section 16. Any inheritance tax commissioner appointed under this Act, any deputy inheritance tax commissioner or any inheritance tax appraiser, who shall take or demand any fees or reward from any executor, administrator, trustee, legatee, devisee, next of kin, or heir

of any decedent, or from any other person liable to pay said tax or any portion thereof, shall be guilty of a felony, and upon conviction thereof shall be punished by confinement in the penitentiary for a term of not less than one year nor more than five years.

Penalty.

County Court Shall Have Jurisdiction Over All Questions Relating to This Tax.

Section 17. The County Court of any county which has assumed lawful jurisdiction over the property of the decedent for general probate or administration purposes under the Laws of Colorado, shall have jurisdiction to hear and determine all questions in relation to the tax arising under the provisions of this Act. If no administration or probate proceedings have been taken out in the courts of this State, the County Court of the county in which the decedent was a resident, if the decedent was domiciled in this State, or if the decedent was not so domiciled, any court which has or had sufficient jurisdiction over the property the transfer of which is taxable, to have issued probate or administration proceedings thereon had the same been justified by the legal status of such property, or the same been applied for, shall have jurisdiction. The County Court first acquiring jurisdiction hereunder shall retain the same to the exclusion of every other.

County Court shall have jurisdiction over all questions relating to this tax.

First Court acquiring jurisdiction shall retain same.

Court Shall Summon Persons Liable When Tax Is Not Paid.

Section 18. If it shall appear to the County Court either from its own knowledge, or upon petition of the Attorney General, that any tax accruing under this Act has not been paid according to law, whether such tax has been previously appraised or assessed or not, or whether or not the estate of the decedent concerned is already pending in such court, it shall issue a summons summoning the person interested in the property liable to the tax to appear before the court on a day certain, not more than three months after the date of such summons, to show cause why said tax should not be paid. If appraisal and assessment, or assessment alone, be necessary, the court shall order the same or complete the same as in ordinary cases and the procedure thereon and appeal or writ of error therefrom, shall be the same as provided in all other cases of appraisal and assessment under

Court shall summon persons liable when tax is not paid.

this Act. If such be not necessary after the hearing upon return of the summons, either because previously completed and binding upon the parties, or because no tax is due, or for any other reason, then the process, practice and pleadings and the hearing and determination thereof, and the judgment in said court in said cases and appeal or writ of error, shall be the same as those which follow after the hearing of objections and judgment thereon, as elsewhere provided in this Act, or as near as may be to the same. All summons and notices required in the proceeding under this Act may be served in every respect as now or hereafter provided for summons in civil actions in rem, unless otherwise provided.

Attorney General May Sue—May Compromise.

Section 19. Whenever the Attorney General shall be informed of any tax due under any of the provisions of this Act which is unpaid, after the refusal or neglect of the person or persons liable to pay the same within one year from the accrual thereof, and where no bond shall have been given as provided in Section 6 it shall be his duty to file a petition under Section 18 of this Act, and press the same to a final conclusion. In addition to any other remedy for the collection of inheritance taxes, the State may enforce its claim therefor and the lien thereof by a civil action, in any court of competent jurisdiction, against any person liable to pay the same, and against any property subject to the lien thereof, and the Attorney General shall be authorized to appear in behalf of the State in any and all inheritance tax matters before any court of record. The Attorney General shall be authorized to compromise any tax matters with the consent of the Governor and the State Treasurer in writing, and to waive on his own responsibility any provisions of Section 12 hereof, in writing. No interest shall be waived except upon the judge's certificate that the delay in payment has been due to proper and necessary litigation or other unavoidable cause.

County Judge and County Clerk Shall Report to Attorney General Every Three Months.

Section 20. The County Judge and County Clerk of each county shall every three months, make a statement in writing to the Attorney General of the property from which, or the person from whom, they, or either of them have reason to believe a tax under this Act is due and unpaid.

Attorney General shall proceed to collect tax after one year of delay.

Attorney General may enforce claim and lien in any court of competent jurisdiction.

Attorney General may compromise with consent of Governor and Treasurer.

No interest waived except in certain cases.

County Judge and County Clerk shall report to Attorney General every three months.

County Judge Shall Keep Record of Estates.

Section 21. The Treasurer of the State shall furnish to each county judge, a book in which he shall enter the returns made by commissioners, the cash value of annuities, life estates and terms of years and other property fixed by him, and the tax assessed thereon, and the amounts of any receipts for payments thereof filed with him, which book shall be kept in the office of the County Judge as a public record.

Treasurer shall furnish book to County Judges who shall keep record of estates.

County Clerk Shall Report Every Six Months All Transfers Apparently Made in Contemplation of Death.

Section 22. The County Clerk and Recorder of each county shall, on the first day of January and July of each year, make reports to the Attorney General, containing a statement of any conveyance filed or recorded in his office of any property which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor, with the name and place of residence of the vendor or grantor, the name and place of residence of the vendee or grantee and description of the property transferred, as shown by such instrument. Such county official shall also furnish to the Attorney General, upon request, all information specifically requested as to any instruments of record in his office.

County Clerks shall report every six months on property which appears to be transferred in contemplation of death.

All Colorado Corporations Shall Report Every 6 Months On All Transfers of Stock Made Contingent Upon the Fact of Death—When Corporation is Liable.

Section 23. All Colorado corporations organized for pecuniary profit shall on the first day of January and July of each year, by its proper officers under oath, make a full and correct report to the Attorney General of all transfers of its stock made during the preceding year by any person who appears on the books of such corporation as the owner of such stock, when such transfer is made to take effect at or after the death of the owner or transferor, and all transfers which are made by an administrator, executor, trustee, or any person other than the owner or person in whose name the stocks appeared of record on the books of such corporation, prior to the transfer thereof. Such report shall show the name of the owner of such stocks and his place of residence, the name

Domestic corporations shall report every six months on transfers of stock made contingent in any way upon the fact of death.

If taxable transfer has been made—Corporation shall be liable for tax.

of the person at whose request the stock was transferred, his place of residence and the authority by virtue of which he acted in making such transfer, the name of the person to whom the transfer was made, and the residence of such person, together with such other information as the officers reporting may have relating to estates of persons deceased who may have been owners of stock in such corporation. If it appears that any such stock so transferred is subject to tax under the provisions of this Act, and the tax has not been paid, the Attorney General shall notify the corporation in writing of its liability for the payment thereof, and shall bring suit against such corporation as in other cases herein provided unless payment of the tax is made within sixty days from the date of such notice.

Receipts May Be Obtained from State Treasurer and Recorded.

Copies of receipts obtainable from State Treasurer for fee of \$0.50.

Section 24. Any person shall, upon the payment of fifty cents, be entitled to a copy of the receipt from the State Treasurer that may have been given for the payment of any tax under this Act, to be sealed with the seal of his office, which receipt shall designate upon the transfer of what real property, if any, of which any decedent may have died seized, said tax has been paid and by whom paid, and whether or not it is in full of said tax; and said receipt may be recorded in the office of the County Clerk of the county in which the property may be situated in a book to be kept for such purpose.

Attorney General May File Caveat in County Court.

Attorney General may file caveat in County Court.

Section 25. The Attorney General may in any estate pending in any County Court of this State at any time before the final settlement and discharge of the administrator or executor therein, file with the Court a caveat setting forth upon oath the fact that he believes an inheritance tax is due on account of transfers made by the decedent. In every such case in which a caveat shall have been filed, the County Judge shall not approve the report of the executor or administrator therein, nor discharge him or them, until a receipt for the payment of the inheritance tax therein has been duly filed in said estate, or the Court has entered a final decree as provided for under Sections 13 and 18 of this Act.

Appointment of Special Guardian for Infants, Etc.

Section 26. If it appears at any stage of an inheritance tax proceeding that any person known to be interested therein is an infant or person under disability the County Judge may appoint a special guardian of such infant or person under disability.

Special guardian for infants, etc.

Tax Upon Expectant Estates May Be Agreed Upon— Trustees Discharged.

Section 27. The Attorney General, by and with the consent of the State Treasurer, expressed in writing, is hereby empowered and authorized to enter into an agreement with the trustees of any estate in which remainders or expectant estates have been of such a nature, or so disposed and circumstanced that the taxes therein were held not presently payable, or where the interests of the legatees or devisees were not ascertainable under an Act entitled, "An Act in relation to public revenue and repealing all previous Acts or parts of Acts in conflict therewith," approved March 22d, 1902, and amendments thereto; and to compound such taxes upon such terms as may be deemed equitable and expedient, and to grant discharge to said trustees upon the payment of the taxes provided for in such composition; PROVIDED, HOWEVER, that no such composition shall be conclusive, in favor of said trustees as against the interests of such cestuis que trust as may possess either present rights of enjoyment, or fixed, absolute or indefeasible rights of future enjoyment, or of such as would possess such rights in the event of the immediate termination of particular estates, unless they consent thereto, either personally, when competent, or by guardian. Composition or settlement made or effected under the provisions of this section shall be executed in triplicate, and one copy filed in the office of the State Treasurer, one copy in the office of the County Court wherein the appraisement was had or the tax was paid, and one copy delivered to the executors, administrators, or trustees who shall be parties thereto.

Tax upon expectant estates may be agreed upon.

Trustees discharged.

Information Concerning Transfers by Non-Residents— Appropriation for Outside Information.

Section 28. The Attorney General may, with the unanimous approval of the Governor, the State Treasurer and the Auditor of State, from time to time, enter into

Attorney General shall take discretionary action on estates outside of State.

How expenses shall be paid.

Appropriation for information and service.

arrangements with persons outside of the State of Colorado for the supplying of information in regard to transfers taxable under this Act which might otherwise escape collection, or may likewise, with the approval of the above officers, make arrangements for special legal services, or other extraordinary expenses, when considered necessary in connection with the collections of taxes, the liability for which is in dispute. Any vouchers drawn under this section shall be signed by all officers above named and the Auditor of State shall thereupon draw a warrant upon the State Treasurer against the Inheritance Tax Fund, as provided for the expenses of the commissioner and his deputies. And there is hereby appropriated from said Inheritance Tax Fund the sum of two thousand dollars per annum, or so much thereof as may be necessary, as a continuing appropriation to pay for such information and services.

Constitutional Section.

Constitutional Section.

Section 29. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act, and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Repealing Section—Taxes Already Accrued Not Released.

Repealing Section.

Section 30. Section 23 to 43, inclusive, of Chapter 94, Session Laws of 1901, of the Act entitled, "An Act in relation to public revenue and repealing all previous Acts in relation thereto," approved April 5th, 1901; Section 21 to 41, inclusive, of Chapter 3, Session Laws of 1902, of the Act entitled, "An Act in relation to public revenue and repealing all previous Acts or parts of Acts in conflict therewith," approved March 22d, 1902; Chapter 193 of the Session Laws of 1909, entitled, "An Act to amend Sections Twenty-one (21), Twenty-two (22), Twenty-nine (29), Thirty-one (31), and Forty-one (41) of an Act approved March 24th, 1902, and entitled, 'An Act in relation to public revenue and repealing all previous Acts or parts of Acts in conflict therewith,' the same being part of Chapter three (3) of the Session Laws of 1902," approved April 17th, 1909; Chapter 136 of the Session Laws of

1913, entitled, "An Act imposing an inheritance tax, providing for the collection thereof, defining and providing for offenses in relation thereto, making an appropriation to carry out the provisions thereof, and repealing all Acts and parts of Acts in conflict therewith," approved May 14th, 1913, and all other Acts and parts of Acts in conflict herewith are hereby repealed; PROVIDED, HOWEVER, that this Act shall not operate to release or waive or otherwise alter any tax or taxes which may have accrued under the provisions of any prior Act.

Taxes already
accrued are not
released.

Safety Clause.

Section 31. It is hereby declared that this Act is necessary for the immediate preservation of the public peace, health and safety. Safety clause.

Approved April 11th, 1921, at 5:00 p. m.

INHERITANCE TAXES

Digest of Colorado Cases

NATURE AND POWER TO IMPOSE.

An inheritance tax is not a tax on property but on the right to succession to the property.—*People v. Palmers Estate*, 25 Colo. App. 450.

The inheritance tax (Gen. Rev. Law 1902, Secs. 21-41; Laws 1902, pp. 49-57, c. 3) is not on property, but on the power or right of transmitting or receiving property by will or descent.—*In re Mackey's Estate*, 46 Colo. 79; 102 P. 1075; 23 L. R. A. (N. S.) 1207.

A tax on an interest on personal property passing by will is a legacy tax.—*Id.*

A tax on an interest in land passing by will or law of descent is a succession tax.—*Id.*

A tax on the interest of lineal descendants is a lineal inheritance tax, and that on collateral descendants is a collateral inheritance tax.—*Id.*

The succession of the thing inherited is the subject of the inheritance tax.—*Walker v. People* 171 P. 747.

STATUTORY PROVISIONS.

Constitutionality.—A tax on inheritances is not such a tax on property as is contemplated by Const. Art. 10, Sec. 3, providing that "all taxes shall be uniform," etc., but is a contribution which the state levies for itself as a condition on which the title to property shall pass on the death of the owner.—*In re House Bill No. 122*, 23 Colo. 492; 48 P. 535.

Because the inheritance tax is on a privilege only, such provisions do not contravene Const. Art. 10, Sec. 11, limiting the rate of taxation on property for state purposes.—*In re Magnes' Estate*, 32 Colo. 527; 77 P. 853; *Brown v. Elder*, 32 Colo. 527; 77 P. 853.

The inheritance tax provisions of Session Laws 1902, c. 3, Secs. 21-22, part of an article entitled, "An Act in Relation to Public Revenue" do not contravene Const. Art. 10, Sec. 3, requiring uniform taxation; this relating only to taxes on property while the inheritance tax is on the privilege of receiving property by will or inheritance.—*Id.*

Construction and Operation in General.—An inheritance tax is a special and not a general tax, and a statute imposing it is construed strictly against the government and in favor of the tax-payer.—*People v. Koenig*, 37 Colo. 283; 85 P. 1129; 11 Ann. Cas. 140.

Property of Non-Residents or Aliens.—Unregistered bonds of Colorado corporations, owned by New York decedent, and held by him in State of New York, though secured by mortgage on realty in Colorado, Wyoming and New Mexico, were not taxable by Colorado under Inheritance Tax Law of 1913.—*Walker v. People*, 171 P. 747; 64 Colo. 143.

Situs of unregistered corporate bonds issued by corporation of state is domicile of non-resident owner, and they are taxable there except when bonds are not in custody of non-resident owner, but physically present in state of issue.—*Id.*

Situs of Property.—If statute so provided, personal property held subject to inheritance tax both in the state where it is located and in the state where the decedent died and the heir resides.—*People v. Palmer's Estate*, 25 Colo. App. 450; 139 P. 554.

TRANSFERS OF PROPERTY NOT SUBJECT TO OR EXEMPT FROM GENERAL TAXATION.

Amount or Value of Estate Disposed of or Distributed.—The inheritance tax law, imposing a tax on property passing by will or by the intestate laws, for which heirs, legatees, and devisees, etc., shall be liable, and declaring that when the beneficial interests to any "property" shall pass to any father, etc., the rate of taxes shall be a specified sum on every \$100 of the market value of the "property received by each person," provided that \$10,000 of any "such estate" shall not be subject to taxes, lays a tax on the receipt of property by each person, and the exemption applies to the separate distributive shares and legatees, and not to the aggregate value of the property of decedent; the words "such estate" referring to the words "property received by each person."—*People v. Koenig*, 37 Colo. 283; 85 P. 1129; 11 Ann. Cas. 140.

Charitable, Educational, Religious, or Other Public Corporations, Institutions, or Purposes.—Rev. Law. 1902, Secs. 21-41 (Laws 1902, pp. 49-57 c. 3), taxing inheritances or legacies, impose a tax on the right to take, and not on the right to give and hence bequests to the city and county for a hospital, and to the Regent of the State University for an auditorium, being to subdivisions of the State in the exercise of governmental duties, were not subject to the tax.—*In re Mackey's Estate*, 46 Colo. 79; 102 P. 1075; 23 L. R. A. (N. S.) 1207.

TRANSFERS SUBJECT TO TAX.

Mode and Form in General.—Under the revenue act (Laws 1902, p. 49, c. 3), imposing a tax on property passing by will or by the intestate laws of the state, where the sole heir of a testator contested the will because testator made him a less liberal allowance than the statute, and the executor paid him a sum in addition to his legacy in consideration of his withdrawing the contest, the sum paid the son was subject to the tax.—*People v. Rice*, 40 Colo. 508; 91 P. 33.

TIME WHEN TAX ACCRUES.

An inheritance tax accrues and is payable immediately upon the death of decedent, though payment may not be exacted until it is determined what has passed under the will or the intestate laws.—*People v. Palmer's Estate*, 25 Colo. App. 450; 139 P. 554.

Under the inheritance tax act of 1902, the tax is due and payable at the death of decedent, and an action could be brought for the collection at any time thereafter within the time limited, regardless of whether the amount of the tax had been definitely ascertained or not.—*Dietemann v. Blackman*, 76 Colo. 378.

PERSONS LIABLE FOR TAX.

In General.—The words "heirs, legatees, devisees, administrators, executors and trustees," in Gen. Rev. Law 1902, Secs. 21-41 (Laws 1902, pp. 49-57 c. 3) imposing on such persons an inheritance tax, comprise all the persons who have succeeded to the property, the administrators and executors for the purpose of administration, the trustees to carry out any trust and the heirs, legatees and devisees at the final distribution or at death so far as real estate is concerned.—*In re Mackey's Estate*, 46 Colo. 79; 102 P. 1075; 23 L. R. A. (N. S.) 1207.

Inheritance tax held not a debt or charge against the decedent, or his estate, but a tax for which the heir is liable, notwithstanding statutory provisions requiring the executor or administrator to collect and pay it.—*People v. Palmer's Estate*, 25 Colo. App. 450; 139 P. 554.

APPRAISEMENT OR OTHER VALUATION.

In General.—Under inheritance tax statute of 1902 (Laws 1902 p. 49, Sec. 21), deduction, in computing tax, of amount expended by executor in keeping up devised real estate during administration, HELD erroneous.—*People v. Palmer's Estate*, 25 Colo. App. 450; 139 P. 554.

Under inheritance tax statute of 1902 (Laws 1902, p. 148, Sec. 21) HELD, that in computing tax, similar tax imposed in other states on property of resident of the state located in such states should not have been deducted.—*Id.*

The inheritance tax imposed by Rev. Stat. Sec. 5551 is computed not upon the whole net estate, but upon such estate less the tax imposed by the Act of Congress. *People v. Bemis*, 68 Colo. 48. This decision is not applicable under the Act of 1921.

REVIEW, CORRECTION OR SETTING ASIDE OF ASSESSMENT.

Though the inheritance tax statute confers a special jurisdiction on the county court in proceedings to ascertain taxes. Rev. St. 1908, Sec. 5561, empowering the court to appoint an appraiser when occa-

sion may require, authorizes the county court on its own motion to vacate an order appointing an appraiser and appoint a new appraiser on the ground that the report of the original appraiser is insufficient, and that the court cannot determine therefrom the amount of an inheritance tax.—County Court of City and County of Denver v. Watson, 51 Colo., 405; 118 P. 979.

INTEREST.

Laws, 1902, p. 49, c. 3, imposing an inheritance tax provides that the taxes shall be due at the death of decedent and payable with interest at the rate of 6 per cent on the taxes until such time as they are paid; provided that, if the tax is paid within six months from the accruing thereof, interest shall not be charged and a discount allowed. HELD, that, though a contest over a will was not determined until more than six months after testator's death, and though suits were brought against corporations in which testator was a stockholder, which suits had they been successful, would have rendered the estate insolvent, so that during such litigation the taxes could not be determined, they were nevertheless payable on the estate passing under the will with 6 per cent. interest from testator's death. People v. Rice, 40 Colo. 508; 91 P. 33.

RATES AND EXEMPTIONS.

Kindred of the Half Blood.—Brothers and sisters of the half blood are charged with inheritance tax at the same rate as brothers and sisters of the whole blood, and are allowed the same exemptions.—People v. Elliff, 74 Colo. 81.

“Children of the half blood” means “kindred of the half blood” in Section 5154 of the Compiled Laws of Colorado, 1921.—Id.

LIMITATIONS.

Section 41 of the inheritance tax act of 1902, limiting the time for commencing actions for the collection of the tax to five years after the same is due, is a general limitation and operates as a bar to such suits after the lapse of five years.—Dietemann v. Blackman, 76 Colo. 378.

Section 41 of the act of 1902 referred to in the case of Dietemann v. Blackman, was amended in 1909, and the limitation removed.—Session Laws of Colo., 1909, p. 466.

DIGEST OF OUTSIDE CASES.

ON VARIOUS TOPICS CONSTRUING PROVISIONS SIMILAR TO THOSE IN THE COLORADO INHERITANCE TAX LAW.

PROPERTY SUBJECT TO TAX.

Debts Due a Non-Resident Decedent by Residents of State May Be Taxed.—A state may tax the transfer, under the will of a non-resident, of debts due the decedent by its citizens. *Blackstone v. Miller* 188 U. S. 189.

The beneficiaries under the will of a non-resident cannot invoke the Federal Constitution to prevent the taxation, under the New York inheritance tax law, of the transfer under such will, of debts due the decedent by its citizens, because the entire inheritance is taxable in the state of the decedent's domicile.—*Id.*

The imposition of a tax, under the New York inheritance tax law, on the transfer under the will of a non-resident, of debts due the decedent by residents of that state, does not violate the 14th amendment to the Federal Constitution.—*Id.*

When Proceeds of Insurance Policies are Taxable.—A policy of insurance upon the life of a decedent, held by him at the time of his death, payable to his executors, administrators and assigns, or to his personal representatives is property owned by him at his death within the meaning of the Collateral Inheritance Act of 1887 and so under that act is subject to appraisal for the purpose of taxation under it. *Matter of Knoedler* 140 N. Y. 377.

Testamentary Transfers in Payment of Debts.—The transfer by will, subjected to taxation by the Act of 1892, is not intended to be limited to property gratuitously given by will, but extends to a testamentary transfer in payment of a debt. *Matter of Gould*, 156 N. Y. 423.

It matters not what the motive of a transfer by will may be, whether to pay a debt, discharge some moral obligation, or to benefit a relative, if the devise or bequest is accepted by the beneficiary, the transfer is made by will within the meaning of the Transfer Tax Act.—*Id.*

CONSTRUCTION.

Gifts Made Without Valuable and Adequate Consideration One Year Prior to Death are Presumed to be Made in Contemplation of Death in Colorado. Laws 1913 c. 643, amending St. 1913, Sec. 1087-1, providing that gifts of a material part of donor's estate, made within

six years prior to his death, shall be construed to have been made in contemplation of death so far as transfer taxes are concerned, constitutes a legislative definition of what is a transfer in contemplation of death, and not a mere rule of law making the fact of such gifts prima facie evidence that they were made in contemplation of death. In *re Ebeling's Estate* 172 N. W. 734, 169 Wis. 432.

PROPERTY NOT SUBJECT TO TAX.

Real Property in Another State is Not Subject to Inheritance Tax.—For inheritance tax purposes the State takes an interest, at death, in all the property of a resident decedent within its jurisdiction and in all his personal property wherever it is located; but real property in another state is not subject to an Illinois Inheritance Tax, whether the title thereto passes by will or by the law of descent of the foreign state. *People v. Kellogg*, 268 Ill. 489.

When Proceeds of Insurance Policies are Not Taxable.—Statute * * * imposing an excise on the passing of property, "which shall pass by will or by laws regulating intestate succession, or by deed, grant or gift * * * made or intended to take effect in possession or enjoyment after the death of the grantor," does not impose such a succession tax on money paid to the **beneficiary** under a policy of life insurance upon the death of the insured. *Tyler v. Treasurer and Receiver General*, 226 Mass. 306.

Tangible Personal Property in Another State Not Taxable.—As respects tangible personal property having an actual situs in a particular state, the power to subject it to taxation rests exclusively in that state, regardless of the domicile of the owner.—*Frick v. Commonwealth of Pennsylvania* (U. S. June 1, 1925) 69 Law Ed. 692.

The power to regulate the transmission, administration, and distribution of tangible personal property on the death of the owner rests with the state of its situs, and the laws of other states have no bearing save as that state expressly or tacitly adopts them.—*Id.*

A state cannot, in computing the amount of succession tax upon the estate of one of its residents, take into consideration the value of tangible personal property belonging to him, but having an actual situs in another state.—*Id.*

RATES OF TAX.

The method of progression from transmission of less to that of greater value provided by the inheritance tax law (S. L. 1905 c. 54) whereby the higher rate of tax is levied upon the whole value of the property transmitted, rather than the increased rate applying only to the excess in value of property transmitted, over the amount subject to the next lower rate, is not in violation of Const. Art. 6, Sec. 17, requiring all taxation to be equal and uniform. In *re McKennon's Estate*, 140 N. W. 33, 27 S. D. 136.

DEDUCTIONS.

Foreign Deductions Not Pro-Rated in Non-Resident Estates with Respect to Assets Within Taxing Jurisdiction.—In determining the value, for the purpose of fixing the amount of the inheritance tax payable in this state, of property having its situs therein which passed in kind to the residuary legatees under the will of a non-resident testator, who left no creditors in this state, and where the estate in the state of his domicile is ample to pay all debts and expenses of its administration, no deduction should be made from the actual value of the property of any portion of the debts proved, or expenses incurred in the state of the testator's domicile. *McDougald v. Lowe* 164 Cal. 107; 127 Pac. 1027.

Federal Estate Tax Not a Deduction.—Neither the state nor the United States, in determining the amount of tax to be imposed upon the transfer of a decedent's estate, is under any constitutional obligation to make deductions on account of the tax of the other. *Frick v. Commonwealth of Pennsylvania* (U. S. June 1, 1925) 69 Law Ed. 692.

APPRAISAL OF PROPERTY.

Market Value is Not Assessed Value and Former Should Govern in Appraising Property.—Acts 26th Gen. Assem. C. 28, Sec. 1, relating to a collateral inheritance tax, provides that it shall be assessable on the "value" of estates over and above \$1,000. In subsequent sections, terms relating to the assessment are used, such as follows: "appraised value," "actual market value," and "value," without qualification. *HELD*, that the assessment should be made upon the fair market value, and not the assessed value of the property fixed for the purpose of ordinary taxation. *In re McGhee's Estate*, 74 N. W. 695, 105 Ia. 9.

Examination of Safety Deposit Boxes—State Has a Right to Know What Property is in a Safety Deposit Box of Deceased Lessee.—When a lessee of a safety deposit box or a safe dies leaving property therein, the State, by its proper representative, has the right to be advised as to the amount and character of the property and of the time it will be surrendered by the safety deposit company to the personal representative, heirs or devisees of the decedent, in order that it may know whether the succession to such property is subject to an inheritance tax. *National Safe Deposit Co. v. Stead* 250 Ill. 584; 85 N. E. 973; 232 U. S. 58.

Examination of Safety Deposit Boxes—Act is Valid In So Far as it Concerns Sole Lessees.—Section 9 of the inheritance tax law of 1909 is a valid enactment, so far as it applies to property of a sole lessee who has died leaving his property in the safety deposit box or safe in the possession and control of the safety deposit company from which he has rented the box or safe.—*Id.*

Examination of Safety Deposit Boxes—Act is Not Invalid Where There are Joint Lessees.—Section 9 of the inheritance tax law of 1909

is not unconstitutional when applied to property of a deceased lessee in a safety deposit box or safe rented by him and other persons jointly, whether the property of such joint lessees has been kept separate by its respective owners or whether the property of the joint lessees has been commingled or is jointly owned by them.—Id.

Examination of Safety Deposit Boxes—Act is Not Invalid as Applied to Partnership Property.—Section 9 of the inheritance tax law of 1909 is not unconstitutional when applied to a case where a safety deposit box or safe has been rented by a co-partnership and one member has died leaving partnership property in the box or safe, as the death of the partner works a dissolution of the firm and the inheritance tax due the State will be assessed only upon the succession to what is due the deceased partner's estate after the partnership debts are paid.—Id.

Reduction in Value of Corporate Stock on Account of Tax Paid on Transfer in State of Incorporation.—The power of a state administering an estate of a decedent owning stocks of corporations of other states, to tax the transfer of such stocks, is limited to the value of the stocks in excess of the tax imposed by the states where the corporations are located, for the transfer of the stocks. *Frick v. Commonwealth of Pennsylvania* (U. S. June 1, 1925) 69 Law Ed. 692.

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