

CHAPTER 63**MISCELLANEOUS PROBATE AND INHERITANCE TAX PROVISIONS****S.F. 440**

AN ACT relating to probate including the lien period for estates which have not been administered, the amount which may be passed to a minor without appointing a conservator, the distribution of an intestate estate to the parents, and special use trusts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 450.7, subsection 1, Code 1995, is amended to read as follows:

1. Except for the share of the estate passing to the surviving spouse, the tax is a charge against and a lien upon the estate subject to tax under this chapter, and all property of the estate or owned by the decedent from the death of the decedent until paid, subject to the following ~~limitations~~ limitation:

~~a. Inheritance taxes owing with respect to a passing of property of a deceased person whose estate has not been administered in this state are no longer a lien against the property twenty years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests which have not been finally vested in possession for at least ten years.~~

~~b. Inheritance taxes owing with respect to a passing of property of a deceased person whose estate has been administered in this state are no longer a lien against the property ten years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests and are deferred in accordance with the provisions of this chapter.~~

Sec. 2. Section 450.12, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. The debts owing by the decedent at the time of death, the local and state taxes accrued before the decedent's death, the federal estate tax and federal taxes owing by the decedent, a reasonable sum for funeral expenses, the allowance for surviving spouse and minor children granted by the probate court or its judge, court costs, ~~the costs of appraisement made for the purpose of assessing the inheritance tax, the fee of personal representatives as allowed by order of court, the amount paid by the personal representatives for a bond, the attorney's fee as determined pursuant to sections 633.107, 633.108, and 633.109 and approved by the court for the probate proceedings in the estate, the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses and any other administration expenses allowable pursuant to section 2053 of the Internal Revenue Code.~~

Sec. 3. Section 633.108, Code 1995, is amended to read as follows:

633.108 SMALL LEGACIES TO MINORS – PAYMENT.

Whenever a minor becomes entitled under the terms of a will to a bequest or legacy, to a share of the estate of an intestate, or to a beneficial interest in a trust fund upon the distribution of the trust fund, and the value of the bequest, legacy, share, or interest does not exceed the sum of ~~four~~ ten thousand dollars, and a conservator for the minor has not been appointed, the court having jurisdiction of the distribution of the funds may, in its discretion, upon the application of the fiduciary, enter an order authorizing the fiduciary to pay the bequest, legacy, share, or interest to ~~the parent or other person entitled to the custody of the minor, for the use of the minor~~ a custodian under any uniform transfers to minors Act. ~~The receipt of the person or persons therefor~~ Receipt by the custodian, when presented to the court or filed with the report of distribution of the fiduciary, shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 4. Section 633.219, subsections 3 and 4, Code 1995, are amended to read as follows:

3. If there is no person to take under either subsection 1 or 2 of this section, ~~to the issue of the parents or either of them per stirpes~~ the estate shall be divided and set aside into two equal shares. One share shall be distributed to the issue of the decedent's mother per stirpes and one share shall be distributed to the issue of the decedent's father per stirpes. If there are no surviving issue of one deceased parent, the entire estate passes to the issue of the other deceased parent in accordance with this subsection.

4. If there is no person to take under subsection 1, 2, or 3 of this section, ~~but~~ and the decedent is survived by one or more grandparents or issue of grandparents, half the estate passes to the paternal grandparents, if both survive, or to the surviving paternal grandparent, ~~or to the issue of the paternal grandparents if both are deceased, the issue taking per stirpes, and the other half passes to the maternal relatives in the same manner; but if there is no surviving grandparent or issue of grandparent on one side, the entire estate passes to the relatives of the other side in the same manner as the half if only one survives. If neither paternal grandparent survives, this half share shall be further divided into two equal subshares. One subshare shall be distributed to the issue of the decedent's paternal grandmother per stirpes and one subshare shall be distributed to the issue of the decedent's paternal grandfather per stirpes. If there are no surviving issue of one deceased paternal grandparent, the entire half share passes to the issue of the other deceased paternal grandparent and their issue in the same manner. The other half of the decedent's estate passes to the maternal grandparents and their issue in the same manner. If there are no surviving grandparents or issue of grandparents on either the paternal or maternal side, the entire estate passes to the decedent's surviving grandparents or their issue on the other side in accordance with this subsection.~~

Sec. 5. Section 633.273, subsection 1, Code 1995, is amended to read as follows:

1. If a devisee dies before the testator, leaving issue who survive the testator, the devisee's heirs issue who survive the testator shall inherit the property devised to the devisee per stirpes, unless from the terms of the will, the intent is clear and explicit to the contrary.

Sec. 6. Section 633.574, Code 1995, is amended to read as follows:

633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP.

If a conservator has not been appointed, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate ~~four~~ ten thousand dollars in value, ~~may~~ shall be paid or delivered to ~~the parent or other person entitled to the custody of the minor, for the use of the minor, upon written statement verified by the oath of the parent or other person that all money or property of the minor does not exceed in the aggregate four thousand dollars~~ a custodian under any uniform transfers to minors Act. The written receipt of the ~~parent or other person entitled to the custody of the minor~~ custodian constitutes an acquittance of the person making the payment of money or delivery of property.

Sec. 7. Section 633.704, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. DISCLAIMER BY ATTORNEY-IN-FACT. Whenever a principal designates in writing another as the principal's attorney-in-fact or agent by a power of attorney, and the designation authorizes the attorney-in-fact to disclaim the principal's interest in any property, the attorney-in-fact has the same right to disclaim as the disclaimant and may disclaim on behalf of the attorney-in-fact's principal.

Sec. 8. REPEAL. Chapter 634A, Code 1995, is repealed.