

# INHERITANCE TAX

## Footnotes

See chapter 450A for generation skipping transfer tax

### **450.1 Definitions construction.**

1. For purposes of this chapter, unless the context otherwise requires:

a. *"Internal Revenue Code"* means the same as defined in section 422.3.

b. *"Person"* includes plural as well as singular, and artificial as well as natural persons.

c. *"Personal representative"* means an administrator, executor, or trustee as each is defined in section 633.3.

d. *"Real estate or real property"* for the purpose of appraisal under this chapter means real estate which is the land and appurtenances, including structures affixed thereto.

e. *"Stepchild"* means the child of a person who was married to the decedent at the time of the decedent's death, or the child of a person to whom the decedent was married, which person died during the marriage to the decedent.

2. This chapter shall not be construed to confer upon a county attorney authority to represent the state in any case, and the county attorney shall represent the department of revenue only when specially authorized by the department to do so.

[S13, § 1481-a45; C24, 27, 31, 35, 39, § **7305**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.1]

83 Acts, ch 177, § 2, 38; 88 Acts, ch 1028, § 35; 99 Acts, ch 152, §32, 40; 2003 Acts, ch 95, §1, 24; 2003 Acts, ch 145, §286

2003 amendment applies to estates of decedents dying on or after July 1, 2003; 2003 Acts, ch 95, §24

### **450.2 Taxable estates and property.**

The following estates and property and any interest in or income from any of the following estates and property, which pass from the decedent owner in any manner described in this chapter, are subject to tax as provided in this chapter:

1. Real estate and tangible personal property located in this state regardless of whether the decedent was a resident of this state at death.

2. Intangible personal property owned by a decedent domiciled in this state.

[C97, § 1467; S13, § 1481-a; C24, 27, 31, 35, 39, § **7306**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.2]

2003 Acts, ch 95, §2, 24

2003 amendment applies to estates of decedents dying on or after July 1, 2003; 2003 Acts, ch 95, §24

### **450.3 Property included.**

The tax hereby imposed shall be collected upon the net market value and shall go into the general fund of the state to be determined as herein provided, of any property passing as follows:

1. By will or under the statutes of inheritance of this or any other state or country.
2. By deed, grant, sale, gift, or transfer made within three years of the death of the grantor or donor, which is not a bona fide sale for an adequate and full consideration in money or money's worth and which is in excess of the annual gift tax exclusion allowable for each donee under section 2503, subsections (b) and (e), of the Internal Revenue Code. If both spouses consent, a gift made by one spouse to a person who is not the other spouse is considered, for the purposes of this subsection, as made one half by each spouse under the same terms and conditions provided for in section 2513 of the Internal Revenue Code. The net market value of a transfer described in this subsection shall be the net market value determined as of the date of the transfer.
3. By deed, grant, sale, gift or transfer made or intended to take effect in possession or enjoyment after the death of the grantor or donor. A transfer of property in respect of which the transferor reserves to the transferor a life income or interest shall be deemed to have been intended to take effect in possession or enjoyment at death, provided, that if the transferor reserves to the transferor less than the entire income or interest, the transfer shall be deemed taxable thereunder only to the extent of a like proportion of the value of the property transferred.
4. To the extent of any property with respect to which the decedent has at the time of death a general power of appointment, or with respect to which the decedent has within three years of death exercised or released a general power of appointment by a disposition which is of a nature that if it were a transfer of property owned by the decedent, the property would be includable in the decedent's gross estate under this section whether the general power was created before or after the taking effect of this chapter. A transfer involving creation of a general power of appointment shall be treated as a transfer of a fee or equivalent interest in the property subject thereto to the donee of the power. Any transfer involving creation of any other power of appointment shall be treated, except when an election is made under subsection 7, as the transfer of a life estate or term of years in the property subject thereto to the donee of the power and as the transfer of the remainder interests to those who would take if the power is not exercised.
5. Property which is held in joint tenancy by the decedent and any other person or persons or any deposit in banks, or other institution in their joint names and payable to either or to the survivor, except such part as may be proven to have belonged to the survivor; or any interest of a decedent in property owned by a joint stock or other corporate body whereby the survivor or survivors become beneficially entitled to the decedent's interest upon the death of a shareholder. However, if such property is so held by the decedent and the surviving spouse as the only co-owners, one half of such property is not subject to taxation under the provisions of this chapter, but if the surviving spouse proves that the surviving spouse contributed to acquisition of such property an amount, in money or other property, greater than one half of the cost of the property held in joint tenancy, the portion of such property which is not subject to taxation under the provisions of this chapter shall be the proportion which the actual contribution by the surviving spouse is of the total contribution to acquisition of such property. The tax imposed upon the passing of property under the provisions of this subsection shall apply to property held under all such contracts or agreements whether made before or after the taking effect of this chapter.
6. When the decedent shall have disposed of the decedent's estate in any manner to take effect at the decedent's death with a request secret or otherwise that the beneficiary give, pay to, or share the property or any interest therein received from the decedent, with other person or persons, or to so dispose of beneficial interests conferred by the decedent upon the beneficiaries as that the property so passing would be taxable under the provisions of this chapter if passing directly by will or deed from the decedent owner to those to receive the gift from the beneficiary, compliance with such request shall constitute a transfer taxable under the provisions of this chapter, at the highest rate possible in like cases of transfers by will or deed.

7. Which qualifies as a qualified terminable interest property as defined in section 2056(b)(7)(B) of the Internal Revenue Code, shall, if an election is made, be treated and considered as passing in fee, or its equivalent, to the surviving spouse in the estate of the donor-grantor. Property on which the election is made shall be included in the gross estate of the surviving spouse and shall be deemed to have passed in fee from the surviving spouse to the persons succeeding to the remainder interest, unless the property was sold, distributed, or otherwise disposed of prior to the death of the surviving spouse. A sale, disposition, or disposal of the property prior to the death of the surviving spouse shall void the election, and shall subject the property disposed of, less amounts received or retained by the surviving spouse, to tax in the donor-grantor's estate in the same manner as if the tax had been deferred under sections 450.44 through 450.49.

Unless the will or trust instrument provides otherwise, the estate of the surviving spouse shall have the right to recover from the persons succeeding to the remainder interests, the additional tax imposed, if any, without interest, on the surviving spouse by reason of the election being made. The amount of tax recovered, if any, shall be a credit in the donee's estate against the tax imposed on the qualified terminable interest property.

An election under this subsection can only be made if an election in relation to the qualified terminable interest property is also made for federal estate tax purposes.

The director of revenue shall adopt and promulgate all rules necessary for the enforcement and administration of this subsection including the form and manner of making the election.

[C97, § 1467; S13, § 1481-a; C24, 27, 31, 35, 39, § **7307**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.3]

84 Acts, ch 1240, § 1; 85 Acts, ch 148, §2, 3; 85 Acts, ch 230, §12; 86 Acts, ch 1237, § 27; 88 Acts, ch 1028, §36; 2003 Acts, ch 95, §3, 24; 2003 Acts, ch 145, §286

2003 amendment to subsection 2 applies to estates of decedents dying on or after July 1, 2003; 2003 Acts, ch 95, §24

#### **450.4 Exemptions.**

The tax imposed by this chapter shall not be collected:

1. When the entire estate of the decedent does not exceed the sum of twenty-five thousand dollars after deducting the liabilities, as defined in this chapter.
2. When the property passes for a charitable, educational, or religious purpose as defined in sections 170(c) and 2055 of the Internal Revenue Code.
3. When the property passes to public libraries or public art galleries within this state, open to the use of the public and not operated for gain, or to hospitals within this state, or to trustees for such uses within this state, or to municipal corporations for purely public purposes.
4. On bequests for the care and maintenance of the cemetery or burial lot of the decedent or the decedent's family, and bequests not to exceed five hundred dollars in any estate of a decedent for the performance of a religious service or services by some person regularly ordained, authorized, or licensed by some religious society to perform such service, which service or services are to be performed for or in behalf of the testator or some person named in the testator's last will.
5. On the value of that portion of any lump sum or installment payments which will be includable as net income as defined in section 422.7 as received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan.

6. On property in an individual development account in the name of the decedent that passes to another individual development account or the state human investment reserve pool created in section 541A.4. For purposes of this subsection, "*individual development account*" means an account that has been certified as an individual development account pursuant to chapter 541A.

7. On the value of that portion of any lump sum or installment payments which are received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan where the employee is a nonresident of Iowa at the time of death.

8. On the value of that portion of any lump sum or installment payments which are received by a beneficiary under an annuity which was purchased under an employee's pension or retirement plan which was excluded from net income as set forth in section 422.7, subsection 31.

[S13, § 1481-a1; C24, 27, 31, 35, 39, § **7308**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.4; 81 Acts, ch 147, § 1, 19]

83 Acts, ch 177, § 3, 38; 93 Acts, ch 97, §15, 20; 94 Acts, ch 1165, §31; 96 Acts, ch 1106, § 8; 2001 Acts, ch 140, §1, 5; 2001 Acts, ch 150, §20, 21; 2002 Acts, ch 1050, §38

2001 amendment to subsection 1 applies to estates of decedents dying on or after July 1, 2001; 2001 Acts, ch 140, §5

#### **450.5 Liability for tax.**

Any person becoming beneficially entitled to any property or interest in property by any method of transfer as specified in this chapter, and all personal representatives and referees of estates or transfers taxable under this chapter, are respectively liable for all taxes to be paid by them respectively.

[C97, § 1467; S13, § 1481-a; C24, 27, 31, 35, 39, § **7309**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.5]

83 Acts, ch 177, § 4, 38

#### **450.6 Accrual of tax maturity extension of time.**

The tax imposed by this chapter accrues at the death of the decedent owner, and shall be paid to the department of revenue on or before the last day of the ninth month after the death of the decedent owner except if otherwise provided in this chapter. If in the opinion of the director of revenue additional time should be granted for payment to avoid hardship, the director may extend the period to a date not exceeding ten years from the last day of the month in which the death of the decedent occurred. In the case of an extension the tax bears interest at the rate in effect under section 421.7 from the expiration of the last day of the ninth month after the decedent's death. Interest shall be computed on a monthly basis with a fraction of a month counted as a full month.

Upon the approval of the executive council, the tax liability of a beneficiary, heir, surviving joint tenant or other transferee may be paid, in lieu of money, in whole or in part by the transfer of real property or tangible personal property to the state or a political subdivision of the state to be used for public purposes. Before the tax liability may be paid by transfer of property to a political subdivision, the governing body of the political subdivision shall also approve the transfer. The property transferred in payment of tax shall have been included in the decedent's gross estate for inheritance tax purposes and its value for the payment of the tax shall be the same as its value for inheritance tax purposes. The acceptance or rejection of the property in payment of the tax liability and the value of the property shall be certified by the executive council to the director of revenue. The acceptance of the property transferred acts as payment and satisfaction of the

inheritance tax liability to the extent of the value of the transferred property, but notwithstanding any other provision, the taxpayer is not entitled to a refund if the transferred property has a value in excess of the tax liability.

[S13, § 1481-a; C24, 27, 31, 35, 39, § **7310**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.6; 81 Acts, ch 131, § 15, ch 147, § 2, 20]

84 Acts, ch 1240, § 2; 2003 Acts, ch 145, §286

## Footnotes

Interest on delinquent taxes, § 450.63

### **450.7 Lien of tax.**

1. Except for the share of the estate passing to the surviving spouse, and parents, grandparents, great-grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants, 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 limitation:

Inheritance taxes owing with respect to a passing of property of a deceased person are no longer a lien against the property ten years from the date of death of the decedent owner regardless of whether the decedent owner died prior to or subsequent to July 1, 1995, except to the extent taxes are attributable to remainder or deferred interests and are deferred in accordance with the provisions of this chapter.

2. Notice of the lien is not required to be recorded. The rights of the state under the lien have priority over all subsequent mortgages, purchases, or judgment creditors; and a conveyance after the decedent's death of the property subject to a lien does not discharge the property except as otherwise provided in this chapter. However, if additional tax is determined to be owing under this chapter or chapter 451 after the lien has been released under paragraph "a" or "b", the lien does not have priority over subsequent mortgages, purchases, or judgment creditors unless notice of the lien is recorded in the office of the recorder of the county where the estate is probated, or where the property is located if the estate has not been administered. The department of revenue may release the lien by filing in the office of the clerk of the court in the county where the property is located, the decedent owner died, or the estate is pending or was administered, one of the following:

*a.* A receipt in full payment of the tax.

*b.* A certificate of nonliability for the tax as to all property reported in the estate.

*c.* A release or waiver of the lien as to all or any part of the property reported in the estate, which shall release the lien as to the property designated in the release or waiver.

3. The sale, exchange, mortgage, or pledge of property by the personal representative pursuant to a testamentary direction or power, pursuant to section 633.387, or under order of court, divests the property from the lien of the tax. The proceeds from that sale, exchange, mortgage, or pledge shall be held by the personal representative subject to the same priorities for the payment of the tax as existed with respect to the property before the transaction, and the personal representative is personally liable for payment of the tax to the extent of the proceeds.

[C97, § 1467; S13, § 1481-a; C24, 27, 31, 35, 39, § **7311**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.7]

83 Acts, ch 177, § 5, 38; 84 Acts, ch 1240, § 3; 90 Acts, ch 1232, § 20; 95 Acts, ch 63, §1; 97 Acts, ch 1, §1, 8; 99 Acts, ch 151, §45, 89; 2003 Acts, ch 145, §286

#### **450.8 Transfers and trusts.**

If the decedent makes transfer of, or creates a trust with respect to, property passing under section 450.3, subsection 2, or intended to take effect after death, except in the case of a bona fide sale for a fair consideration in money or money's worth, and if the tax in respect to the transfer is not paid when due, the transferee or trustee is personally liable for the tax, and the property, to the extent of the decedent's interest in the property at the time of death, is subject to a lien for the payment of the tax.

[C97, § 1467; S13, § 1481-a; C24, 27, 31, 35, 39, § **7312**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.8]

84 Acts, ch 1240, § 4

#### **450.9 Individual exemptions.**

In computing the tax on the net estate, the entire amount of property, interest in property, and income passing to the surviving spouse, and parents, grandparents, great- grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants are exempt from tax.

[C31, 35, § 7312-d1; C39, § **7312.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.9; 81 Acts, ch 147, § 3, 19]

91 Acts, ch 159, §23, 24; 94 Acts, ch 1046, §10; 97 Acts, ch 1, §2, 8

#### **450.10 Rate of tax.**

The property or any interest therein or income therefrom, subject to the provisions of this chapter, shall be taxed as herein provided:

1. When the property or any interest in property, or income from property, taxable under the provisions of this chapter, passes to the brother or sister, son-in-law, or daughter-in-law, the rate of tax imposed on the individual share so passing shall be as follows:

Five percent on any amount up to twelve thousand five hundred dollars.

Six percent on any amount in excess of twelve thousand five hundred dollars and up to twenty-five thousand dollars.

Seven percent on any amount in excess of twenty-five thousand dollars and up to seventy-five thousand dollars.

Eight percent on any amount in excess of seventy-five thousand dollars and up to one hundred thousand dollars.

Nine percent on any amount in excess of one hundred thousand dollars and up to one hundred fifty thousand dollars.

Ten percent on all sums in excess of one hundred fifty thousand dollars.

2. When the property or interest in property or income from property, taxable under this chapter, passes to a person not included in subsections 1 and 6, the rate of tax imposed on the individual share so passing shall be as follows:

Ten percent on any amount up to fifty thousand dollars.

Twelve percent on any amount in excess of fifty thousand dollars and up to one hundred thousand dollars.

Fifteen percent on all sums in excess of one hundred thousand dollars.

3. When the property or any interest therein or income therefrom, taxable under the provisions of this chapter, passes in any manner to societies, institutions or associations incorporated or organized under the laws of any other state, territory, province or country than this state, for charitable, educational or religious purposes, or to cemetery associations, including humane societies not organized under the laws of this state, or to resident trustees for uses without this state, the rate of tax imposed shall be as follows:

Ten percent on the entire amount so passing.

4. When the property or any interest in property or income from property, taxable under this chapter, passes to any firm, corporation, or society organized for profit, including fraternal and social organizations which do not qualify for exemption under sections 170(c) and 2055 of the Internal Revenue Code, the rate of tax imposed shall be as follows:

Fifteen percent on the entire amount so passing.

5. When the property or any interest in property, or income from property, taxable under this chapter, passes to any person included under subsection 1, there shall be credited to the tax imposed on the individual share so passing an amount equal to the tax imposed in this state on the decedent on any property, real, personal or mixed, or the proportionate share thereof on property passing to the person taxed hereunder, which can be identified as having been received by the decedent as a share in the estate of any person who died within two years prior to the death of the decedent, or which can be identified as having been acquired by the decedent in exchange for property so received. The credit shall not be applicable to taxes on property of the decedent which was not acquired from the prior estate.

6. Property, interest in property, or income passing to the surviving spouse, and parents, grandparents, great-grandparents, and other lineal ascendants, children including legally adopted children and biological children entitled to inherit under the laws of this state, stepchildren, and grandchildren, great-grandchildren, and other lineal descendants, is not taxable under this section.

[C97, § 1467; S13, § 1481-a; C24, 27, 31, 35, 39, § **7313**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.10; 81 Acts, ch 147, § 4]

91 Acts, ch 159, §2527; 94 Acts, ch 1046, §11; 97 Acts, ch 1, §38; 2001 Acts, ch 116, §24, 28

2001 amendment to subsection 4 applies to estates of decedents dying on or after July 1, 2001; 2001 Acts, ch 116, §28

**450.11** Repealed by 65 Acts, ch 366, § 6.

#### **450.12 Liabilities deductible.**

1. Subject to the limitations in subsections 2 and 3, there shall be deducted from the gross value of the estate only the liabilities defined 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, and any other administration expenses allowable pursuant to section 2053 of the Internal Revenue Code.

b. A liability shall not be deducted unless the personal representative or other person filing the inheritance tax return as provided in section 450.22 certifies that it has been paid or, if not paid, the director of revenue is satisfied that it will be paid. If the amount of liabilities deductible under this section exceeds the amount of property subject to the payment of the liabilities, the excess shall be deducted from other property included in the gross estate on a prorated basis that the gross value of each item of other property bears to the total gross value of all the other property. Subject to the previous provision, a liability is deductible whether or not the liability is legally enforceable against the decedent's estate.

2. If the decedent's gross estate includes property with a situs outside of Iowa, the liabilities deductible under subsection 1 shall be prorated on the basis that the gross value of property with a situs in Iowa bears to the total gross estate. Only the Iowa portion of the liabilities shall be deductible in computing the tax imposed by this chapter. However, a liability secured by a lien on property shall be allocated to the state where the property has a situs and shall not be prorated except to the extent the liability exceeds the value of the property.

3. If a liability under subsection 1 is secured by property, or a portion of property, not included in the decedent's gross estate, only that portion of the liability attributable to property or a portion of property included in the decedent's gross estate is deductible in computing the tax imposed by this chapter.

83 Acts, ch 177, § 6, 38; 90 Acts, ch 1232, § 21; 94 Acts, ch 1165, §32, 49; 95 Acts, ch 63, §2; 2003 Acts, ch 145, §286

**450.13 Inheritance tax and lien book.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.14 Report required blanks.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.15 Copy for department of revenue.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.16** Repealed by 76 Acts, ch 1056, § 45.

**450.17 Conveyance effect.**

When real estate or an interest in real estate is subject to tax, a conveyance does not discharge the real estate conveyed from the lien except as provided in section 450.7.

[S13, § 1481-a26; C24, 27, 31, 35, 39, § **7323**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.17]

83 Acts, ch 177, § 7, 38

**450.18 Acceptance of final report.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.19 Record of estates by department.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.20 Record of deferred estates.**

The department of revenue shall keep a separate record of any deferred estate upon which the tax due is not paid on or before the last day of the ninth month after the death of the decedent, showing substantially the

same facts as are required in other cases, and also showing:

1. The date and amount of all bonds given to secure the payment of the tax with a list of the sureties thereon.
2. The name of the person beneficially entitled to such estate or interest, with place of residence.
3. A description of the property or a statement of conditions upon which such deferred estate is based or limited.

[S13, § 1481-a46; C24, 27, 31, 35, 39, § **7326**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.20]

2003 Acts, ch 95, §4, 24; 2003 Acts, ch 145, §286

2003 amendment to unnumbered paragraph 1 applies to estates of decedents dying on or after July 1, 2003; 2003 Acts, ch 95, §24

#### **450.21 Administration on application of director.**

If, upon the death of any person leaving an estate that may be liable to a tax under this chapter, a will disposing of the estate is not offered for probate, or an application for administration made within four months from the time of the decease, the director of revenue may, at any time thereafter, make application to the proper court, setting forth that fact and requesting that a personal representative be appointed, and the court shall appoint a personal representative to administer upon the estate.

[S13, § 1481-a3; C24, 27, 31, 35, 39, § **7327**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.21]

83 Acts, ch 177, § 8, 38; 2003 Acts, ch 145, §286

#### **450.22 Administration avoided inheritance tax duties required penalty.**

1. When the heirs or persons entitled to inherit the property of an estate subject to tax under this chapter desire to avoid the appointment of a personal representative as provided in section 450.21, and in all instances where real estate is involved and there are no regular probate proceedings, they or one of them shall file under oath the inventories required by section 633.361 and the required reports, perform all the duties required by this chapter of the personal representative, and file the inheritance tax return.

2. However, this section does not apply and a return is not required to be filed even though real estate is part of the assets subject to tax under this chapter, if all of the assets are held in joint tenancy with right of survivorship between husband and wife alone, or if the estate exclusively consists of property held in joint tenancy with the right of survivorship solely by the decedent and individuals listed in section 450.9 as individuals that are entirely exempt from Iowa inheritance tax and the estate does not have a federal estate tax obligation.

3. However, this section does not apply and a return is not required to be filed, even though real estate is involved, if the estate does not have a federal estate tax filing obligation and if all the estate's assets are described in any of the following categories:

- a. Assets held in joint tenancy with right of survivorship between husband and wife alone.
- b. Assets held in joint tenancy with right of survivorship solely between the decedent and individuals listed in section 450.9 as individuals that are entirely exempt from Iowa inheritance tax.
- c. Assets passing by beneficiary designation, pursuant to a trust intended to pass the decedent's property at

death or through any other nonprobate transfer solely to individuals listed in section 450.9 as individuals that are entirely exempt from Iowa inheritance tax.

This subsection does not apply to interests in an asset or assets that pass to both an individual listed in section 450.9 and to that individual's spouse.

4. If a return is not required to be filed pursuant to subsection 3, and if real estate is involved, one of the individuals with an interest in, or succeeding to an interest in, the real estate shall file an affidavit in the county in which the real estate is located setting forth the legal description of the real estate and the fact that an inheritance tax return is not required pursuant to subsection 3. Anyone with or succeeding to an interest in real estate who willfully fails to file such an affidavit, or who willfully files a false affidavit, is guilty of a fraudulent practice.

5. When this section applies, proceedings for the collection of the tax when a personal representative is not appointed shall conform as nearly as possible to proceedings under this chapter in other cases.

[S13, § 1481-a3; C24, 27, 31, 35, 39, § **7328**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.22]

83 Acts, ch 177, § 9, 38; 89 Acts, ch 251, §36; 99 Acts, ch 151, §46, 89; 2004 Acts, ch 1073, §30; 2005 Acts, ch 14, §1, 6

2005 amendments to subsection 4 apply to estates of decedents dying on or after July 1, 2004; 2005 Acts, ch 14, §6

**450.23** Repealed by 71 Acts, ch 218, § 13.

#### **450.24 Appraisers.**

In each county, the chief judge of the judicial district for that county shall, on or before January 15 of the year an appointment is required, appoint three competent residents and freeholders of the county to act as appraisers of the real property within its jurisdiction which is charged or sought to be charged with an inheritance tax. The appraisers shall serve for four years, and until their successors are appointed and qualified. They shall each take an oath to faithfully and impartially perform the duties of the office, but shall not be required to give bond. They shall be subject to removal at any time at the discretion of the chief judge of the judicial district for that county. The chief judge may also in the chief judge's discretion, either before or after the appointment of the regular appraisers, appoint other appraisers to act in any given case. Vacancies occurring otherwise than by expiration of term shall be filled by appointment of the chief judge of the judicial district for that county. A person interested in any manner in the estate to be appraised shall not serve as an appraiser of that estate.

[S13, § 1481-a4; C24, 27, 31, 35, 39, § **7330**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.24]

83 Acts, ch 177, § 10, 38; 2000 Acts, ch 1032, § 2; 2000 Acts, ch 1057, §5

**450.25 and 450.26** Repealed by 71 Acts, ch 218, § 13.

#### **450.27 Commission to appraisers.**

When an appraisal of real estate is requested by the department of revenue, as provided in section 450.37, or is otherwise required by this chapter, the clerk shall issue a commission to the appraisers, who shall fix a time and place for appraisement, except that if the only interest that is subject to tax is a remainder or deferred interest upon which the tax is not payable until the determination of a prior estate or interest for life or term of years, the clerk shall not issue the commission until the determination of the prior estate, except at the

request of the department of revenue when the parties in interest seek to remove an inheritance tax lien. When valuing the real estate for purposes of inheritance tax, an appraiser does not have the jurisdiction to determine what property or partial interests may or may not be subject to tax. Whole interests in the property should be appraised and the question of the actual property or partial interest subject to inheritance tax is to be determined by means of the administrative procedures pursuant to section 450.94. All joint property that is to be appraised should be listed at its full market value. Long-term leases are not considered in determining the value of property when being appraised.

[S13, § 1481-a5; C24, 27, 31, 35, 39, § **7331**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.27]

83 Acts, ch 177, § 11, 38; 99 Acts, ch 152, §33, 40; 2003 Acts, ch 145, §286

#### **450.28 Notice of appraisalment.**

It shall be the duty of all appraisers appointed under the provisions of this chapter, upon receiving a commission as herein provided, to give notice to the director of revenue, the attorney of record of the estate, if any, and other persons known to be interested in the property to be appraised, of the time and place at which they will appraise such property, which time shall not be less than ten days from the date of such notice. The notice shall further state that the director of revenue or any person interested in the estate or property appraised may, within sixty days after filing of the appraisalment with the clerk of court, file objections to the appraisalment. The notice shall be served by certified mail and such notice is deemed completed when the notice is deposited in the mail and postmarked for delivery.

[S13, § 1481-a6; C24, 27, 31, 35, 39, § **7332**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.28]

97 Acts, ch 157, §1; 2003 Acts, ch 145, §286

#### **450.29 Notice of filing.**

Upon service of such notice and the making of such appraisalment, the notice and appraisalment shall be filed with the clerk, and a copy of the appraisalment shall at once be filed by the clerk with the director of revenue. The clerk shall send a notice, by ordinary mail, to the attorney of record of the estate, if any, to the personal representative of the estate, and to each person known to be interested in the estate or property appraised. The notice shall state the date the appraisalment was filed with the clerk of court and shall include a copy of the appraisalment.

[C97, § 1476; S13, § 1481-a6; C24, 27, 31, 35, 39, § **7333**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.29]

97 Acts, ch 157, §2; 2003 Acts, ch 145, §286

#### **450.30 Real property in different counties.**

If real property is located in more than one county, the appraisers of the county in which the estate is being administered may appraise all real estate, or those of the several counties may serve for the real property within their respective counties or other appraisers be appointed as the district court may direct.

[C97, § 1476; S13, § 1481-a6; C24, 27, 31, 35, 39, § **7334**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.30]

83 Acts, ch 177, § 12, 38

#### **450.31 Objections.**

The director of revenue or any person interested in the estate or property appraised may, within sixty days after filing of the appraisal with the clerk, file objections to said appraisal and give notice thereof as in beginning civil actions, to the director of revenue or the representative of the estate or trust, if any, otherwise to the person interested as heir, legatee, or transferee, on the hearing of which as an action in equity either party may produce evidence competent or material to the matters therein involved.

[S13, § 1481-a7; C24, 27, 31, 35, 39, § **7335**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.31]

2003 Acts, ch 145, §286

## **Footnotes**

Service of notice, R.C.P. 1.3021.315

### **450.32 Hearing order.**

If upon the hearing the court finds the amount at which the real property is appraised is its value on the market in the ordinary course of trade and the appraisal was fairly and in good faith made, it shall approve the appraisal. If the court finds that the appraisal was made at a greater or lesser sum than the value of the real property in the ordinary course of trade, or that it was not fairly or in good faith made, it shall set aside the appraisal. Upon the appraisal being set aside, the court shall fix the value of the real property of the estate for inheritance tax purposes and the valuation fixed is that upon which the tax shall be paid, unless an appeal is taken from the order of the court as provided for in this chapter.

[S13, § 1481-a7; C24, 27, 31, 35, 39, § **7336**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.32]

83 Acts, ch 177, § 13, 38

### **450.33 Appeal and notice.**

The director of revenue or anyone interested in the property appraised may appeal to the supreme court from the order of the district court fixing the value of the property of said estate. Notice of appeal shall be served within sixty days from the date of the order appealed from, and the appeal shall be perfected in the time now provided for appeals in equitable actions.

[S13, § 1481-a7; C24, 27, 31, 35, 39, § **7337**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.33]

2003 Acts, ch 145, §286

### **450.34 Bond on appeal.**

In case of appeal the appellant, if not the director of revenue, shall give bond to be approved by the clerk of the court, which bond shall provide that the said appellant and sureties shall pay the tax for which the property may be liable with cost of appeal.

[S13, § 1481-a7; C24, 27, 31, 35, 39, § **7338**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.34]

2003 Acts, ch 145, §286

## **Footnotes**

Presumption of approval, § 636.10

**450.35** Repealed by 76 Acts, ch 1056, § 45.

**450.36 Appraisal of other property.**

If there is an estate or real property subject to tax and the records in the clerk's office do not disclose that there may be a tax due under this chapter, the persons interested in the real property shall report the matter to the department of revenue with a request that the real property be appraised.

[S13, § 1481-a8; C24, 27, 31, 35, 39, § **7341**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.36]

83 Acts, ch 177, § 14, 38; 2003 Acts, ch 145, §286

**450.37 Value for computing the tax.**

1. Unless the value has been determined under chapter 450B, the tax shall be computed based upon one of the following:

*a.* The fair market value of the property in the ordinary course of trade determined under subsection 2.

*b.* The alternate value of the property, if the personal representative so elects, that has been established for federal estate tax purposes under section 2032 of the Internal Revenue Code. The election shall be exercised on the return by the personal representative or other person signing the return, within the time prescribed by law for filing the return or before the expiration of any extension of time granted for filing the return.

2. Fair market value of real estate in the ordinary course of trade shall be established by agreement, including an agreement to accept the values as finally determined for federal estate tax purposes. The agreement shall be between the department of revenue, the personal representative, and the persons who have an interest in the property.

*a.* If an agreement has not been reached on the fair market value of real property in the ordinary course of trade, the director of revenue has sixty days after the return is filed to request an appraisal under section 450.27. If an appraisal request is not made within the sixty-day period, the value listed on the return is the agreed value of the real property.

*b.* If an agreement is not reached on the fair market value of personal property in the ordinary course of trade, the personal representative or any person interested in the personal property may appeal to the director of revenue for a revision of the department of revenue's determination of the value and after the appeal hearing may seek judicial review of the director's decision. The provisions of section 450.94, subsection 3, relating to appeal of a determination of the department and review of the director's decision apply to an appeal and review made under this subsection.

3. In addition to the applicable period of limitation for examination and determination, the department shall make an examination to adjust the value of real property for Iowa inheritance tax purposes to the value accepted by the internal revenue service for federal estate tax purposes. The department shall make an examination and adjustment for the value of the real property at any time within six months from the date of receipt by the department of written notice from the personal representative for the estate that all federal estate tax matters between the estate and the internal revenue service have been concluded. To begin the running of the six-month period, the notice shall be in writing in a form sufficient to inform the department of the final disposition of the federal estate tax obligation with the internal revenue service and a copy of the federal document showing the final disposition and final federal adjustments of all real property values must be attached. The department shall make an adjustment to the value of real property for inheritance tax purposes to the value accepted for federal estate tax purposes regardless of whether an inheritance clearance has been issued, an appraisal has been obtained on the real property indicating a contrary value, whether there

has been an acceptance of another value for real property by the department, or whether an agreement has been entered into by the department and the personal representative for the estate and persons having an interest in the real property regarding the value of the real property. Notwithstanding the period of limitation specified in section 450.94, subsection 3, the personal representative for the estate shall have six months from the day of final disposition of any real property valuation matter between the personal representative for the estate and the internal revenue service to claim a refund of an overpayment of tax due to the change in the valuation of real property by the internal revenue service.

[S13, § 1481-a8; C24, 27, 31, 35, 39, § **7342**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.37; 81 Acts, ch 147, § 6]

83 Acts, ch 177, § 15, 38; 84 Acts, ch 1305, § 37; 88 Acts, ch 1028, § 37; 89 Acts, ch 6, §6; 99 Acts, ch 151, §47, 89; 99 Acts, ch 152, §34, 40; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, §31

**450.38 Deduction of debts.** Repealed by 83 Acts, ch 177, § 37, 38. See § 450.12.

**450.39 Valuation established by inventory.** Repealed by 83 Acts, ch 177, § 37, 38. See § 450.37.

**450.40 to 450.43** Repealed by 71 Acts, ch 218, § 13.

**450.44 Remainders valuation.**

When a person whose estate over and above the amount of that person's liabilities, as defined in this chapter, exceeds the sum of twenty-five thousand dollars, bequeaths, devises, or otherwise transfers real property to or for the use of persons exempt from the tax imposed by this chapter, during life or for a term of years and the remainder to persons not thus exempt, this property, upon the determination of the estate for life or years, shall be valued at its then actual market value from which shall be deducted the value of any improvements on it made by the person who owns the remainder interest during the time of the prior estate, to be determined as provided in section 450.37, subsection 1, paragraph "a", and the tax on the remainder shall be paid by the person who owns the remainder interest as provided in section 450.46.

[S13, § 1481-a10; C24, 27, 31, 35, 39, § **7349**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.44; 81 Acts, ch 147, § 7, 19]

83 Acts, ch 177, § 16, 38; 2001 Acts, ch 140, §2, 5

2001 amendment applies to estates of decedents dying on or after July 1, 2001; 2001 Acts, ch 140, §5

**450.45 Life and term estates valuation.**

If an estate or interest for life or term of years in real property is given to a party other than those exempt by this chapter, the property shall be valued as provided in section 450.37 as is provided in ordinary cases, and the party entitled to the estate or interest shall, on or before the last day of the ninth month from the death of the decedent owner, pay the tax, and in default the court shall order the estate or interest, or as much as necessary to pay the tax, penalty, and interest, to be sold.

[S13, § 1481-a11; C24, 27, 31, 35, 39, § **7350**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.45; 81 Acts, ch 147, § 8, 20]

83 Acts, ch 177, § 17, 38; 84 Acts, ch 1240, § 5

**450.46 Deferred estate valuation.**

Upon the determination of a prior estate or interest, when the remainder or deferred estate or interest or a part of it is subject to tax and the tax upon the remainder or deferred interest has not been paid, the persons entitled to the remainder or deferred interest shall immediately report to the department of revenue the fact of the determination of the prior estate, and upon receipt of the report, or upon information from any source, of the determination of a prior estate when the remainder interest has not been valued for the purpose of assessing tax, the property shall be valued as provided in like cases in section 450.44 and the tax upon the remainder interest shall be paid by the person who owns the remainder interest on or before the last day of the ninth month after the determination of the prior estate. If the tax is not paid within this time the court shall then order the property, or as much as necessary to pay the tax, penalty, and interest, to be sold.

[S13, § 1481-a11; C24, 27, 31, 35, 39, § **7351**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.46; 81 Acts, ch 147, § 9, 20]

83 Acts, ch 177, § 18, 38; 84 Acts, ch 1240, § 6; 2003 Acts, ch 145, §286

#### **450.47 Life and term estates in personal property.**

If an estate or interest for life or term of years in personal property is given to one or more persons other than those exempt by this chapter and the remainder or deferred estate to others, the property devised or conveyed shall be valued under section 450.37 as provided in ordinary estates and the value of the estates or interests devised or conveyed shall be determined as provided in section 450.51, and the tax upon the estates or interests liable for the tax shall be paid to the department of revenue from the property valued or by the persons entitled to the estate or interest on or before the last day of the ninth month after the death of the testator, grantor, or donor. However, payment of the tax upon a deferred estate or remainder interest may be deferred until the determination of the prior estate by the giving of a good and sufficient bond as provided in section 450.48.

[S13, § 1481-a12; C24, 27, 31, 35, 39, § **7352**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.47; 81 Acts, ch 147, § 10, 20]

83 Acts, ch 177, § 19, 38; 84 Acts, ch 1240, § 7; 2003 Acts, ch 145, §286

#### **450.48 Payment deferred bond.**

When in case of deferred estates or remainder interests in personal property or in the proceeds of any real estate that may be sold during the time of a life, term, or prior estate, the persons interested who may desire to defer the payment of the tax until the determination of the prior estate, shall file with the clerk of the proper district court a bond as provided herein in other cases, such bond to be renewed every two years until the tax upon such deferred estate is paid. If at the end of any two-year period the bond is not promptly renewed as herein provided and the tax has not been paid, the bond shall be declared forfeited, and the amount thereof forthwith collected. When the estate of a decedent consists in part of real and in part of personal property, and there be an estate for life or for a term of years to one or more persons and a deferred or remainder estate to others, and such deferred or remainder estate is in whole or in part subject to the tax imposed by this chapter, if the deferred or remainder estates or interests are so disposed that good and sufficient security for the payment of the tax for which such deferred or remainder estates may be liable can be had because of the lien imposed by this chapter upon the real property of such estate, then payment of the tax upon such deferred or remainder estates may be postponed until the determination of the prior estate without giving bond as herein required to secure payment of such tax, and the tax shall remain a lien upon such real estate until the tax upon such deferred estate or interest is paid.

[S13, § 1481-a13; C24, 27, 31, 35, 39, § **7353**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.48]

#### **450.49 Bonds conditions.**

All bonds required by this chapter shall be payable to the department of revenue and shall be conditioned upon the payment of the tax, interest, and costs for which the estate may be liable, and for the faithful performance of all the duties hereby imposed upon and required of the person whose acts are by such bond to be guaranteed, and shall be in an amount equal to twice the amount of the tax, interest, and costs that may be due, but in no case less than five hundred dollars, and must be secured by not less than two resident freeholders or by a fidelity or surety company authorized by the commissioner of insurance to do business in this state.

[S13, § 1481-a14; C24, 27, 31, 35, 39, § **7354**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.49]

2003 Acts, ch 145, §286

#### **450.50 Removal of property from state bond.**

It shall be unlawful for any person to remove from this state any property, or the proceeds thereof, that may be subject to the tax imposed by this chapter, without paying the said tax to the department of revenue. Any person violating the provisions of this section shall be guilty of a serious misdemeanor and upon conviction shall be fined an amount equal to twice the amount of tax, interest, and costs for which the estate may be liable; provided, however, that the penalty hereby imposed shall not be enforced if, prior to the removal of such property or the proceeds thereof, the person desiring to effect such removal files with the clerk a bond conditioned upon the payment of the tax, interest, and costs, as is provided in section 450.49 hereof.

[S13, § 1481-a15; C24, 27, 31, 35, 39, § **7355**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.50]

2003 Acts, ch 145, §286

#### **450.51 Annuities life and term estates.**

The value of any annuity, deferred estate, or interest, or any estate for life or term of years, subject to inheritance tax shall be determined for the purpose of computing the tax by the use of current, commonly used tables of mortality and actuarial principles pursuant to regulations prescribed by the director of revenue. The taxable value of annuities, life or term, deferred, or future estates, shall be computed at the rate of four percent per annum of the established value of the property in which the estate or interest exists or is founded.

[S13, § 1481-a16; C24, 27, 31, 35, 39, § **7356**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.51]

83 Acts, ch 177, § 20, 38; 2003 Acts, ch 145, §286

#### **Footnotes**

Mortality table, at end of Vol VI

#### **450.52 Deferred estates removal of lien.**

Whenever it is desired to remove the lien of the inheritance tax on remainders, reversions, or deferred estates, parties owning the beneficial interest may pay at any time the said tax on the present worth of such interests determined according to the rules herein fixed.

[S13, § 1481-a16; C24, 27, 31, 35, 39, § **7357**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.52]

#### **450.53 Duty to pay tax penalties.**

1. *a.* All personal representatives, except guardians and conservators, and other persons charged with the management or settlement of any estate or trust from which a tax is due under this chapter, shall file an inheritance tax return, within the time limits set by section 450.6, with a copy of any federal estate tax return and other documents required by the director which may reasonably tend to prove the amount of tax due, and at the time of filing, shall pay to the department of revenue the amount of the tax due from any devisee, grantee, donee, heir, or beneficiary of the decedent, except in cases where payment of the tax is deferred until the determination of a prior estate. The owner of the future interest shall file a supplemental inheritance tax return and pay to the department of revenue the tax due within the time limits set in this chapter. The inheritance tax returns shall be in the form prescribed by the director.

*b.* Notwithstanding paragraph "a", an inheritance tax return is not required to be filed if the estate does not have a federal estate tax filing obligation and if all the estate or trust assets pass solely to individuals listed in section 450.9 as individuals that are entirely exempt from Iowa inheritance tax. This paragraph is not applicable if interests in the asset pass to both an individual listed in section 450.9 and to that individual's spouse.

2. A person in possession of assets to be reported for purposes of taxation, including a personal representative or trustee, who willfully makes a false or fraudulent return, or who willfully fails to pay the tax, or who willfully fails to supply the information necessary to prepare the return or determine if a return is required, or who willfully fails to make, sign, or file the required return within the time required by law, is guilty of a fraudulent practice. This subsection does not apply to failure to make, sign, or file a return or failure to pay the tax if a return is not required to be filed pursuant to subsection 1, paragraph "b".

3. A person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax, is guilty of an aggravated misdemeanor.

4. The jurisdiction of any offense as defined in this section is in the county of the residence of the decedent at the time of death. If the decedent is a nonresident of the state, jurisdiction is in any county in which property subject to the tax is located.

5. A prosecution for any offense defined in this section shall be commenced not later than six years following the commission of the offense.

[S13, § 1481-a17; C24, 27, 31, 35, 39, § **7358**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.53]

83 Acts, ch 177, § 21, 38; 94 Acts, ch 1165, §33; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, §32; 2005 Acts, ch 14, §2, 6

2005 amendments to subsection 2 apply to estates of decedents dying on or after July 1, 2004; 2005 Acts, ch 14, §6

#### **450.54 Sale to pay tax.**

Personal representatives or the director of revenue may sell as much of the property of the decedent as will enable them to pay the tax, in the same manner as provided by law for the sale of that property for the payment of debts of testators or intestates.

[S13, § 1481-a17; C24, 27, 31, 35, 39, § **7359**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.54]

83 Acts, ch 177, § 22, 38; 2003 Acts, ch 145, §286

#### **450.55 Means to collect tax.**

The provisions of sections 422.26 and 422.30, pertaining to jeopardy assessments and distress warrants, apply to the unpaid tax, penalty, and interest imposed under this chapter. In addition the director of revenue may bring, or cause to be brought in the director's name of office, suit for the collection of the tax, penalty, interest, and costs, against the personal representative or against the person entitled to property subject to the tax, or upon any bond given to secure payment of the tax, either jointly or severally, and upon obtaining judgment may cause execution to be issued as is provided by statute in other cases. The proceedings shall conform as nearly as may be to those for the collection of ordinary debt by suit.

[S13, § 1481-a17; C24, 27, 31, 35, 39, § **7360**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.55]

83 Acts, ch 177, § 23, 38, 39; 84 Acts, ch 1240, § 8; 2003 Acts, ch 145, §286

**450.56 Time of payment extended.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.57 Tax deducted from legacy or collected.**

Every personal representative or referee having in charge or trust any property of an estate subject to tax which is made payable by the personal representative or referee, shall deduct the tax from the property or shall collect the tax from the legatee or person entitled to the property and pay the tax to the department of revenue, and the personal representative or referee shall not deliver any specific legacy or property subject to tax to any person until the personal representative or referee has collected the tax.

[S13, § 1481-a18; C24, 27, 31, 35, 39, § **7362**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.57]

83 Acts, ch 177, § 24, 38; 2003 Acts, ch 145, §286

**450.58 Final settlement to show payment.**

1. Except as provided in subsection 2, the final settlement of the account of a personal representative shall not be accepted or allowed unless it shows, and the court finds, that all taxes imposed by this chapter upon any property or interest in property that are made payable by the personal representative and to be settled by the account, have been paid, and that the receipt of the department of revenue for the tax has been obtained as provided in section 450.64.

2. If an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph "b", the personal representative's final settlement of account need not contain an inheritance tax receipt from the department, but shall, instead, contain the personal representative's certification under section 633.35 that an inheritance tax return is not required to be filed pursuant to section 450.53, subsection 1, paragraph "b".

3. Any order contravening any provision of this section is void.

[S13, § 1481-a19; C24, 27, 31, 35, 39, § **7363**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.58]

83 Acts, ch 177, § 25, 38; 85 Acts, ch 148, §4; 86 Acts, ch 1054, §2; 86 Acts, ch 1241, §44; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, §33; 2005 Acts, ch 14, §3, 6

**Footnotes**

Similar provision, § 422.27

2005 amendments to subsection 2 apply to estates of decedents dying on or after July 1, 2004; 2005 Acts, ch 14, §6

#### **450.59 Judicial review.**

Judicial review of a decision of the director may be sought under the Iowa administrative procedure Act, chapter 17A, except that the petition may be filed in the district court in the county in which some part of the property is situated, if the decedent was not a resident, or such court in the county of which the deceased was a resident at the time of the decedent's death or where such estate is administered.

[S13, § 1481-a20; C24, 27, 31, 35, 39, § **7364**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.59]

2003 Acts, ch 44, §114

#### **450.60 Director to represent state.**

The director of revenue shall, with all the rights and privileges of a party in interest, represent the state in any such proceedings.

[S13, § 1481-a20; C24, 27, 31, 35, 39, § **7365**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.60]

2003 Acts, ch 145, §286

#### **450.61 Bequests to personal representatives.**

If a decedent appoints one or more personal representatives and, in lieu of their allowance or commission, makes a bequest or devise of property to them which would otherwise be liable to tax, or appoints them residuary legatees, and the bequests, devises, or residuary legacies exceed the statutory fees as compensation for their services, the excess is liable to tax.

[S13, § 1481-a21; C24, 27, 31, 35, 39, § **7366**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.61]

83 Acts, ch 177, § 26, 38

#### **450.62 Legacies charged upon real estate.**

If legacies subject to tax are charged upon or payable out of real estate, the heir or devisee, before paying the tax, shall deduct the tax from it and pay it to the personal representative or department of revenue, and the tax shall remain a charge against and be a lien upon the real estate until it is paid. Payment of the tax shall be enforced by the personal representative or director of revenue as provided in this chapter.

[S13, § 1481-a22; C24, 27, 31, 35, 39, § **7367**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.62]

83 Acts, ch 177, § 27, 38; 2003 Acts, ch 145, §286

#### **450.63 Maturity of tax interest penalty.**

All taxes not paid within the time prescribed in this chapter are subject to a penalty as provided in section 421.27 and shall draw interest at the rate in effect under section 421.7 until paid.

[S13, § 1481-a23; C24, 27, 31, 35, 39, § **7368**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.63; 81 Acts, ch 131, § 16, ch 147, § 11, 20; 82 Acts, ch 1180, § 7, 8]

84 Acts, ch 1173, § 9; 86 Acts, ch 1007, § 39; 90 Acts, ch 1172, § 13

## Footnotes

Interest on extension of time, § 450.6

### **450.64 Receipt showing payment.**

Upon payment of the tax in full the department of revenue shall forthwith transmit a receipt to the person designated by the taxpayer signing the return showing payment of the tax. If the tax is not paid in full, a taxpayer whose tax liability is paid in full may request a receipt as to that taxpayer's share of the tax.

[S13, § 1481-a23; C24, 27, 31, 35, 39, § **7369**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.64]

83 Acts, ch 177, § 28, 38; 2003 Acts, ch 145, §286

### **450.65 Director to enforce collection.**

It shall be the duty of the director of revenue to enforce the collection of the delinquent inheritance tax, and the provisions of law with reference thereto.

[C24, 27, 31, 35, 39, § **7370**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.65]

2003 Acts, ch 145, §286

### **450.66 Investigation by director.**

The director of revenue may issue a citation to any person who the director may believe or has reason to believe has any knowledge or information concerning any property which the director believes or has reason to believe has been transferred by any person and as to which there is or may be a tax due to the state under the provisions of the inheritance tax laws of this state, and by such citation require such person to appear before the director or anyone designated by the director at the county seat of the county where said person resides and at a time to be designated in such citation, and testify under oath as to any fact or information within the person's knowledge touching the quantity, value, and description of any such property and the disposition thereof which may have been made by any person, and to produce and submit to the inspection of the director of revenue, any books, records, accounts, or documents in the possession of or under the control of any person so cited.

[C24, 27, 31, 35, 39, § **7371**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.66]

2003 Acts, ch 145, §286

### **450.67 Inspection of books, records, etc.**

The director of revenue may also inspect and examine the books, records, and accounts of any person, firm, or corporation, including the stock transfer books of any corporation, for the purpose of acquiring any information deemed necessary or desirable by the director for the proper enforcement of the inheritance tax laws of this state, and the collection of the full amount of the tax which may be due to the state thereunder.

[C24, 27, 31, 35, 39, § **7372**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.67]

2003 Acts, ch 145, §286

### **450.68 Information confidential.**

Any and all information acquired by the department of revenue under and by virtue of the means and methods provided for by sections 450.66 and 450.67 shall be deemed and held as confidential and shall not be disclosed by the department except so far as the same may be necessary for the enforcement and collection of the inheritance tax provided for by the laws of this state; provided, however, that the director of revenue may authorize the examination of the information by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state or of the federal government.

Federal tax returns, copies of returns, return information as defined in section 6103(b) of the Internal Revenue Code, and state inheritance tax returns, which are required to be filed with the department for the enforcement of the inheritance and estate tax laws of this state, shall be deemed and held as confidential by the department. However, such returns or return information, may be disclosed by the director to officers or employees of other state agencies, subject to the same confidentiality restrictions imposed on the officers and employees of the department.

It shall be unlawful for any present or former officer or employee of the state to disclose, except as provided by law, any return, return information or any other information deemed and held confidential under the provisions of this section. Any person violating the provisions of this section shall be guilty of a serious misdemeanor.

[C24, 27, 31, 35, 39, § 7373; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.68]

92 Acts, 2nd Ex, ch 1001, § 245; 2003 Acts, ch 145, §286

#### **450.69 Contempt.**

Refusal of any person to attend before the director of revenue in obedience to any such citation, or to testify, or produce any books, accounts, records, or documents in the person's possession or under the person's control and submit the same to inspection of the department of revenue when so required, may, upon application of the director of revenue, be punished by any district court in the same manner as if the proceedings were pending in such court.

[C24, 27, 31, 35, 39, § 7374; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.69]

2003 Acts, ch 145, §286

#### **Footnotes**

Contempts, chapter 665

#### **450.70 Fees.**

Witnesses so cited before the director of revenue, and any sheriff or other officer serving such citation shall receive the same fees as are allowed in civil actions; to be audited by the department of revenue and paid upon the certificate of the director of revenue out of funds not otherwise appropriated.

[C24, 27, 31, 35, 39, § 7375; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.70]

2003 Acts, ch 145, §286

#### **Footnotes**

Sheriff's fees, § 331.655; witness fees, § 622.69

#### **450.71 Proof of amount of tax due.**

Before issuing a receipt for the tax, the director of revenue may demand from personal representatives or beneficiaries information as necessary to verify the correctness of the amount of the tax and interest, and when this demand is made they shall send to the director of revenue certified copies of wills, deeds, or other papers, or of those parts of their reports as the director may demand, and upon the refusal or neglect of the parties to comply with the demand of the director, the clerk of the court shall comply with the demand, and the expenses of making copies and transcripts shall be charged against the estate, as are other costs in probate, or the tax may be assessed without deducting liabilities for which the estate is liable.

[S13, § 1481-a24; C24, 27, 31, 35, 39, § **7376**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.71]

83 Acts, ch 177, § 29, 38; 2003 Acts, ch 145, §286

**450.72 Extension of time of appraisal.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.73 Heirs at law to make report.** Repealed by 83 Acts, ch 177, § 37, 38.

**450.74 to 450.80** Repealed by 76 Acts, ch 1056, § 45.

#### **450.81 Duty of recorder.**

Each county recorder shall, upon the filing in the recorder's office of a deed, bill of sale, or other transfer of any description which shows upon its face that it was made or intended to take effect in possession or enjoyment at or after the death of the maker of the instrument, forward to the department of revenue a copy of the instrument.

[C24, 27, 31, 35, 39, § **7385**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.81]

91 Acts, ch 191, §119; 2003 Acts, ch 145, §286

**450.82 and 450.83** Repealed by 76 Acts, ch 1056, § 45.

#### **450.84 Costs charged against estate exceptions.**

If an estate or interest in an estate passes so as to be liable to taxation under this chapter, all costs of the proceedings for the assessment of the tax are chargeable to the estate as other costs in probate proceedings and, to discharge the lien, all costs as well as the taxes must be paid. In all other cases the costs are to be paid as ordered by the court. When a decision adverse to the state has been rendered, with an order that the state pay the costs, the clerk of the court in which the action was pending shall certify the amount of the costs to the director of revenue, who shall, if the costs are correctly certified and the case has been finally terminated and the tax, if any is due, has been paid, audit the claim and direct the department of administrative services to issue a warrant on the treasurer of state in payment of the costs.

[S13, § 1481-a35; C24, 27, 31, 35, 39, § **7388**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.84]

88 Acts, ch 1134, § 84; 2003 Acts, ch 145, §260

#### **450.85 Appropriation.**

There is hereby appropriated out of any funds in the state treasury not otherwise appropriated a sum sufficient to carry out the provisions of section 450.84.

[C27, 31, 35, § 7388-a1; C39, § **7388.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.85]

**450.86 Securities and assets held by bank, etc.** Repealed by 97 Acts, ch 60, §1, 2.

**450.87 Transfer of corporation stock.**

If a foreign personal representative assigns or transfers any corporate stock or obligations in this state standing in the name of a decedent or in trust for a decedent liable to tax, the tax shall be paid to the department of revenue on or before the transfer; otherwise the corporation permitting its stock to be transferred is liable to pay the tax, interest, and costs, and the director of revenue shall enforce the payment of the tax, interest, and costs.

[S13, § 1481-a37; C24, 27, 31, 35, 39, § **7390**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.87]

83 Acts, ch 177, § 31, 38; 2003 Acts, ch 145, §286

**450.88 Corporations to report transfers.**

Every Iowa corporation organized for pecuniary profit shall, on July 1 of each year, by its proper officers under oath, make a full and correct report to the director of revenue of all transfers of its stocks made during the preceding year by any person who appears on the books of the corporation as the owner of the stock, when the transfer is made to take effect at or after the death of the owner or transferor, and all transfers which are made by a personal representative, referee, or any person other than the owner or person in whose name the stocks appeared of record on the books of the corporation, prior to the transfer. This report shall show the name of the owner of the stocks and the owner's place of residence, the name of the person at whose request the stock was transferred, the person's place of residence and the authority by virtue of which the person acted in making the transfer, the name of the person to whom the transfer was made, and the residence of the person, together with other information the officers reporting have relating to estates of persons deceased who may have been owners of stock in the corporation. If it appears that any stock transferred is subject to tax under this chapter, and the tax has not been paid, the director of revenue shall notify the corporation in writing of its liability for the payment of the tax, and shall bring suit against the corporation as in other cases unless payment of the tax is made within sixty days from the date of notice.

This section does not apply if the lien has been released under section 450.7 or the director has issued a consent to transfer.

[S13, § 1481-a38; C24, 27, 31, 35, 39, § **7391**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.88]

83 Acts, ch 177, § 32, 38; 2003 Acts, ch 145, §286

**450.89 Foreign estates deduction of debts.** Repealed by 83 Acts, ch 177, § 37, 38. See § 450.12(2).

**450.90 Property in this state belonging to foreign estate.**

When property, real or personal, within this state belongs to a foreign estate and the foreign estate passes in part exempt from the tax imposed by this chapter and in part subject to the tax and there is not a specific devise of the property within this state to exempt persons or if it is within the authority or discretion of the foreign personal representative administering the estate to dispose of the property not specifically devised to exempt persons in the payment of liabilities owing by the decedent at the time of death, or in the satisfaction of legacies, devises, or trusts given to direct or collateral legatees or devisees or in payment of the distributive shares of any direct and collateral heirs, then the property within the jurisdiction of this state belonging to the foreign estate is subject to the tax imposed by this chapter, and the tax due shall be assessed as provided in section 450.12, subsection 2, relating to the deduction of the proportionate share of liabilities. However, if the

value of the property so situated exceeds the total amount of the estate passing to other persons than those exempt from the tax imposed by this chapter, the excess is not subject to tax.

[S13, § 1481-a40; C24, 27, 31, 35, 39, § **7393**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.90]

83 Acts, ch 177, § 33, 38

**450.91 Foreign estates reciprocity personal property.** Repealed by 2003 Acts, ch 95, § 23, 24.

Repeal applies to estates of decedents dying on or after July 1, 2003; 2003 Acts, ch 95, §24

**450.92 Compromise settlement.** Repealed by 99 Acts, ch 151, §86, 89.

**450.93 Unknown heirs.**

Whenever the heirs or persons entitled to any estate or any interest therein are unknown or their place of residence cannot with reasonable certainty be ascertained, a tax of five percent shall be paid to the department of revenue upon all such estates or interests, subject to refund as provided herein in other cases; provided, however, that if it be afterwards determined that any estate or interest passes to aliens, there shall be paid within sixty days after such determination and before delivery of such estate or property, an amount equal to the difference between five percent, the amount paid, and the amount which such person should pay under the provisions of this chapter.

[S13, § 1481-a42; C24, 27, 31, 35, 39, § **7395**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.93]

2003 Acts, ch 145, §286

**450.94 Return determination appeal.**

1. "*Taxpayer*" as used in this section means a person liable for the payment of tax as stated in section 450.5.
2. Unless a return is not required to be filed pursuant to section 450.22, subsection 3, or section 450.53, subsection 1, paragraph "*b*", the taxpayer shall file an inheritance tax return on forms to be prescribed by the director of revenue on or before the last day of the ninth month after the death of the decedent. When an inheritance tax return is filed, the department shall examine it and determine the correct amount of tax. If the amount paid is less than the correct amount due, the department shall notify the taxpayer of the total amount due together with any penalty and interest which shall be a sum certain if paid on or before the last day of the month in which the notice is dated, or on or before the last day of the following month if the notice is dated after the twentieth day of a month and before the first day of the following month.
3. If the amount paid is greater than the correct tax, penalty, and interest due, the department shall refund the excess with interest. Interest shall be computed at the rate in effect under section 421.7, under the rules prescribed by the director counting each fraction of a month as an entire month and the interest shall begin to accrue on the first day of the second calendar month following the date of payment or on the date the return was due to be filed or was filed, whichever is the latest. However, the director shall not allow a claim for refund or credit that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is later. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within sixty days from the date of the notice of determination of tax, penalty, and interest due or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty, and interest or refund due, and notify the appellant of the

decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the date of the notice of the director's decision.

4. Payments received must be credited first to the penalty and interest accrued and then to the tax due.

5. The amount of tax imposed under this chapter shall be assessed according to one of the following:

*a.* Within three years after the return is filed with respect to property reported on the final inheritance tax return.

*b.* At any time after the tax became due with respect to property not reported on the final inheritance tax return, but not later than three years after the omitted property is reported to the department on an amended return or on the final inheritance tax return if one was not previously filed.

*c.* The period for examination and determination of the correct amount of tax to be reported and due under this chapter is unlimited in the case of failure to file a return or the filing of a false or fraudulent return or affidavit.

In addition to the applicable periods of limitations for examination and determination specified in paragraphs "a" and "b", the department may make an examination and determination at any time within six months from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter between the taxpayer and the internal revenue service with respect to the federal estate, gift, or generation skipping transfer tax. In order to begin the running of the six months assessment period, the notice shall be in writing in form sufficient to inform the department of the final disposition of any matter with respect to the federal estate, gift, or generation skipping transfer tax, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice.

[S13, § 1481-a43; C24, 27, 31, 35, 39, § **7396**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.94; 81 Acts, ch 131, § 17]

83 Acts, ch 177, § 34, 38; 84 Acts, ch 1240, § 9, 10; 85 Acts, ch 148, §5; 86 Acts, ch 1007, § 40; 86 Acts, ch 1241, § 45; 89 Acts, ch 285, §9; 91 Acts, ch 159, §28; 94 Acts, ch 1133, §11, 16; 96 Acts, ch 1034, § 42; 99 Acts, ch 151, §48, 89; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, §34; 2005 Acts, ch 14, §4

#### **450.95 Appropriation.**

There is hereby appropriated out of any funds in the state treasury not otherwise appropriated a sum sufficient to carry out the provisions of section 450.94.

[C27, 31, 35, § 7396-a1; C39, § **7396.1**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.95]

#### **450.96 Contingent estates.**

Estates in expectancy which are contingent or defeasible and in which proceedings for the determination of the tax have not been taken or where the taxation has been held in abeyance, shall be valued at their full, undiminished value when the persons entitled to the estates come into the beneficial enjoyment or possession of the estates, without diminution for or on account of any valuation previously made. When an estate, devise, or legacy can be divested by the act or omission of the legatee or devisee, it shall be taxed as if there were no possibility of the divesting. When a devise, bequest, or transfer is one in part contingent, and in part vested so that the beneficiary will come into possession and enjoyment of a portion of the inheritance on or before the happening of the event upon which the possible defeating contingency is based, a tax shall be imposed and collected upon the bequest or transfer as upon a vested interest, at the highest rate possible

under this chapter if no contingency existed; provided that if the contingency reduces the value of the estate or interest taxed, and the amount of tax paid is in excess of the tax for which the bequest or transfer is liable upon the removal of the contingency, the excess shall be refunded as provided in sections 450.94 and 450.95 in other cases.

[S13, § 1481-a44; C24, 27, 31, 35, 39, § **7397**; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, § 450.96]

83 Acts, ch 177, § 35, 38

**450.97 Joint owners of bank accounts duty to notify department of revenue.** Repealed by 2005 Acts, ch 5, § 1.