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. a. 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.

b. 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.

c. 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.

d. 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]


Referred to in §450.8