

APR 10 1975

HOUSE FILE 679

WAYS & MEANS CALENDAR

House File 679
Ways and Means
Curtis, Chairman
Junkins
Shaff

By COMMITTEE ON WAYS AND MEANS

Passed House, Date 4-14-75 (1104)

Passed Senate, Date 5-19-75 (1458)

Vote: Ayes 87 Nays 0

Vote: Ayes 46 Nays 0

Approved 6-3-75

A BILL FOR

1 An Act relating to the final return, payment and refund, and
2 appeal procedures for the state inheritance tax.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section four hundred fifty point ninety-four
2 (450.94), Code 1975, is amended by striking the section and
3 inserting in lieu thereof the following:

4 450.94 FINAL RETURN--DETERMINATION--APPEAL.

5 1. "Taxpayer" as used in this section means a person
6 liable for the payment of tax as stated in section four hundred
7 fifty point five (450.5) of the Code.

8 2. The taxpayer shall file a final inheritance tax return
9 on forms to be prescribed by the director of revenue. When
10 a final inheritance tax return is filed, the department shall
11 examine it and determine the correct amount of tax. If the
12 amount paid is less than the correct amount due, the department
13 shall notify the taxpayer of the total amount due together
14 with any interest thereon, which shall be a sum certain if
15 paid on or before the last day of the month in which the
16 notice is postmarked, or on or before the last day of the
17 following month if the notice is postmarked after the twentieth
18 day of a month and before the first day of the following
19 month.

20 3. If the amount paid is greater than the correct tax
21 and interest due, the department shall refund the excess,
22 with interest after sixty days from the date of payment at
23 six percent per annum, under the provisions of rules as may
24 be prescribed by the director. However, the director shall
25 not allow a claim for refund or credit that has not been filed
26 with the department within five years after the tax payment
27 upon which a refund or credit is claimed becomes due, or one
28 year after the tax payment was made, whichever time is the
29 later. A determination by the department of the amount of
30 tax due, or the amount of refund for excess tax paid, shall
31 be final unless the estate, trust, heir, beneficiary,
32 transferee or other person aggrieved by the determination
33 appeals to the director for a revision of the determination
34 within ninety days from the postmark date of the notice of
35 determination of tax due or refund owing. The director shall

1 grant a hearing, and upon the hearing the director shall
2 determine the correct tax or refund due, and notify the
3 appellant of the decision by certified mail. The decision
4 of the director shall be final unless the appellant seeks
5 judicial review of the director's decision under section four
6 hundred fifty point fifty-nine (450.59) of the Code within
7 sixty days after the postmark date of the notice of the
8 director's decision.

9 Sec. 2. Section four hundred fifty point fifty-nine
10 (450.59), Code 1975, is amended to read as follows:

11 450.59 ~~JURISDICTION-OF-COURT~~ JUDICIAL REVIEW. The Judicial
12 review of a decision of the director may be sought under the
13 Iowa Administrative Procedure Act, except that the petition
14 may be filed in the district court in the county in which
15 some part of the property is situated, ~~of~~ if the decedent
16 who was not a resident, or such court in the county of which
17 the deceased was a resident at the time of his death or where
18 such estate is administered, ~~shall have jurisdiction to hear~~
19 and determine all questions regularly brought before it in
20 relation to said tax that may arise affecting any devise,
21 legacy, annuity, transfer, grant, gift, or inheritance, subject
22 to appeal as in other cases.

23 EXPLANATION

24 Under the present inheritance tax law there is no pro-
25 vision for an administrative method of resolving disputes
26 between the taxpayer and the Department of Revenue. The only
27 remedy under present law is to start a lawsuit. This is ex-
28 pensive for both the taxpayer and the State of Iowa. It also
29 burdens the court with tax cases which in many instances could
30 be resolved by the Director and the taxpayer.

31 This bill provides for an administrative remedy for
32 resolving disputes on the correct inheritance tax due or on
33 the correct refund owed, by enabling the taxpayer to have
34 a hearing before the Director of Revenue if there is a
35 disagreement. The bill also provides for an appeal to the

1 District Court under the provisions of the Iowa Administrative
2 Procedure Act in the event the Director's decision is not
3 accepted by the taxpayer.

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LSB 1092
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HOUSE FILE 679

AN ACT

RELATING TO THE FINAL RETURN, PAYMENT AND REFUND, AND APPEAL
PROCEDURES FOR THE STATE INHERITANCE TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section four hundred fifty point ninety-four (450.94), Code 1975, is amended by striking the section and inserting in lieu thereof the following:

450.94 FINAL RETURN--DETERMINATION--APPEAL.

1. "Taxpayer" as used in this section means a person liable for the payment of tax as stated in section four hundred fifty point five (450.5) of the Code.

2. The taxpayer shall file a final inheritance tax return on forms to be prescribed by the director of revenue. When a final 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 interest thereon, which shall be a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked 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 and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at

six percent per annum, under the provisions of rules as may be prescribed by the director. However, the director shall not allow a claim for refund or credit that has not been filed with the department within five years after the tax payment upon which a refund or credit is claimed becomes due, or one year after the tax payment was made, whichever time is the later. A determination by the department of the amount of tax due, or the amount of refund for excess tax paid, shall be final unless the estate, trust, heir, beneficiary, transferee or other person aggrieved by the determination appeals to the director for a revision of the determination within ninety days from the postmark date of the notice of determination of tax due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax or refund due, and notify the appellant of the decision by certified mail. The decision of the director shall be final unless the appellant seeks judicial review of the director's decision under section four hundred fifty point fifty-nine (450.59) of the Code within sixty days after the postmark date of the notice of the director's decision.

Sec. 2. Section four hundred fifty point fifty-nine (450.59), Code 1975, is amended to read as follows:

450.59 ~~JURISDICTION-OF-COURT~~ JUDICIAL REVIEW. The Judicial review of a decision of the director may be sought under the Iowa Administrative Procedure Act, except that the petition may be filed in the district court in the county in which some part of the property is situated, ~~of~~ if the decedent ~~who~~ was not a resident, or such court in the county of which the deceased was a resident at the time of his death or where

such estate is administered, shall have jurisdiction to hear and determine all questions regularly brought before it in relation to said tax that may arise affecting any devise, legacy, annuity, transfer, grant, gift, or inheritance, subject to appeal as in other cases.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 679, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved June 3rd, 1975

ROBERT D. RAY
Governor