

Finance: Doderer, Chair; Branstad and Halvorson of Webster.

Do Pass 5/3 APR 27 1983
Sen. Hays - Mean 5/6/83 Do Pass 5/12 (p. 1705)
FINANCE

HOUSE FILE 635

BY COMMITTEE ON WAYS AND MEANS

(Formerly Study Bill 9)

Passed House, Date 5-5-83 (p. 1797) Passed Senate, Date 5-12-83 (p. 1707)

Vote: Ayes 98 Nays 2 Vote: Ayes 44 Nays 6

Approved June 6, 1983

A BILL FOR

1 An Act relating to the state inheritance tax by eliminating
2 the preliminary inheritance tax return, specifying the
3 value to use in computing the tax, providing for in-
4 heritance tax receipts and collection of the tax, including
5 penalties and interest and making coordinating amendments.

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

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HOUSE FILE 635

H-3976

1 Amend House File 635 as follows:

2 1. Page 4, line 5, by inserting after the word
3 "inventories" the words and figure "required by section
4 633.361".

5 2. Page 9, line 31, by striking the word
6 "FIDUCIARIES" and inserting in lieu thereof the words
7 "FIDUCIARIES PERSONAL REPRESENTATIVES".

8 3. Page 9, line 32, by striking the words "All
9 fiduciaries" and inserting in lieu thereof the words
10 "fiduciaries All personal representatives".

H-3976 FILED MAY 2, 1983

BY GRONINGA of Cerro Gordo

Adopted 5/5/83 (p. 1797)

HF 635

1 Section 1. Section 331.704, subsection 2, paragraph i,
2 Code 1983, is amended by striking the paragraph.

3 Sec. 2. Section 450.1, Code 1983, is amended by adding
4 the following new unnumbered paragraph:

5 NEW UNNUMBERED PARAGRAPH. For purposes of this chapter,
6 unless the context otherwise requires, "personal representa-
7 tive" means an executor, administrator, or trustee as each
8 is defined in section 633.3.

9 Sec. 3. Section 450.4, subsection 1, Code 1983, is amended
10 to read as follows:

11 1. When the entire estate of the decedent does not exceed
12 the sum of ten thousand dollars after deducting the ~~debts~~
13 liabilities, as defined in this chapter.

14 Sec. 4. Section 450.5, Code 1983, is amended to read as
15 follows:

16 450.5 LIABILITY FOR TAX. Any person becoming beneficially
17 entitled to any property or interest ~~therein~~ in property by
18 any method of transfer as ~~herein~~ specified in this chapter,
19 and all ~~administrators, executors,~~ personal representatives
20 and referees ~~and trustees~~ of estates or transfers taxable
21 ~~under the provisions of~~ this chapter, ~~shall be~~ are respectively
22 liable for all such taxes to be paid by them respectively.

23 Sec. 5. Section 450.7, subsection 3, Code 1983, is amended
24 to read as follows:

25 3. The sale, exchange, mortgage, or pledge of property
26 by the personal representative pursuant to a testamentary
27 direction or power, pursuant to section 633.387, or under
28 order of court, divests the property from the lien of the
29 tax. The proceeds from ~~such a~~ that sale, exchange, mortgage,
30 or pledge shall be held by the personal representative subject
31 to the same priorities for the payment of the tax as existed
32 with respect to the property before the transaction, and the
33 personal representative is personally liable for payment of
34 the tax to the extent of the proceeds. ~~Whenever there is~~
35 ~~a change in the status, type, or nature of the assets reported~~

1 ~~in-the-preliminary-inventory,-the-change-shall-be-reported~~
2 ~~on-or-before-the-filing-of-the-final-report-when-required~~
3 ~~by-the-department-of-revenue.~~

4 Sec. 6. Section 450.12, Code 1983, is amended by striking
5 the section and inserting in lieu thereof the following:

6 450.12 LIABILITIES DEDUCTIBLE.

7 1. Subject to the limitations in subsections 2 and 3,
8 there shall be deducted from the gross value of the estate
9 only the liabilities defined as follows:

10 The debts owing by the decedent at the time of death, the
11 local and state taxes accrued before the decedent's death,
12 the federal estate tax and federal taxes owing by the decedent,
13 a reasonable sum for funeral expenses, the allowance for sur-
14 viving spouse and minor children granted by the probate court
15 or its judge, court costs, the costs of appraisement made
16 for the purpose of assessing the inheritance tax, the fee
17 of personal representatives as allowed by order of court,
18 the amount paid by the personal representatives for a bond,
19 the attorney's fee in a reasonable amount to be approved by
20 the court for the probate proceedings in the estate, the costs
21 of the sale of real estate or personal property in the estate,
22 including the real estate agent's commission, and expenses
23 for abstracting, documentary stamps, and title correction
24 expenses.

25 A liability shall not be deducted unless the personal
26 representative certifies that it has been paid or, if not
27 paid, the director of revenue is satisfied that it will be
28 paid.

29 2. If the decedent's gross estate includes property with
30 a situs outside of Iowa, the liabilities deductible under
31 subsection 1 shall be prorated on the basis that the gross
32 value of property with a situs in Iowa bears to the total
33 gross estate. Only the Iowa portion of the liabilities shall
34 be deductible in computing the tax imposed by this chapter.
35 However, a liability secured by a lien on property shall be

1 allocated to the state where the property has a situs and
2 shall not be prorated except to the extent the liability
3 exceeds the value of the property.

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

10 Sec. 7. Section 450.17, Code 1983, is amended to read
11 as follows:

12 450.17 CONVEYANCE--EFFECT. When ~~said~~ real estate or any
13 an interest therein, in real estate is subject to such tax,
14 ~~no a conveyance either-before-or-after-the-entering-of-said~~
15 ~~lien, shall~~ does not discharge the real estate so conveyed
16 from ~~said~~ the lien except as provided in section 450.7.

17 Sec. 8. Section 450.21, Code 1983, is amended to read
18 as follows:

19 450.21 ADMINISTRATION ON APPLICATION OF DIRECTOR. If,
20 upon the death of any person leaving an estate that may be
21 liable to a tax under ~~the-provisions-of~~ this chapter, a will
22 disposing of ~~such~~ the estate is not offered for probate, or
23 an application for administration made within four months
24 from the time of ~~such~~ the decease, the director of revenue
25 may, at any time thereafter, make application to the proper
26 court, setting forth ~~such~~ that fact and praying requesting
27 ~~that an-administrator-may~~ a personal representative be
28 appointed, and ~~thereupon-said~~ the court shall appoint an
29 ~~administrator~~ a personal representative to administer upon
30 ~~such~~ the estate.

31 Sec. 9. Section 450.22, Code 1983, is amended to read
32 as follows:

33 450.22 ADMINISTRATION AVOIDED. When the heirs or persons
34 entitled to inherit the property of an estate subject to the
35 tax ~~hereby-imposed~~ under this chapter, desire to avoid the

1 appointment of ~~an-administrator~~ a personal representative
2 as provided in section 450.21, and in all instances where
3 real estate is involved and ~~no~~ regular probate proceedings
4 are not had, they or one of them shall file under oath the
5 inventories and reports and perform all the duties required
6 by this chapter, ~~of-administrators,--including-the-filing-of~~
7 the-lien of the personal representative and file the
8 inheritance tax return. Proceedings for the collection of
9 the tax when ~~no-administrator~~ a personal representative is
10 not appointed, shall conform as nearly as may be to the
11 provisions of this chapter in other cases.

12 Sec. 10. Section 450.24, Code 1983, is amended to read
13 as follows:

14 450.24 APPRAISERS. In each county the court shall, on
15 or before January 15 of each year, appoint three competent
16 residents and freeholders of ~~said~~ the county to act as
17 appraisers of ~~all~~ the real property within its jurisdiction
18 which is charged or sought to be charged with an inheritance
19 tax. ~~Said~~ The appraisers shall serve for one year, and until
20 their successors are appointed and qualified. They shall
21 each take an oath to faithfully and impartially perform the
22 duties of the office, but shall not be required to give bond.
23 They shall be subject to removal at any time at the discretion
24 of the court. The court may also in its discretion, either
25 before or after the appointment of the regular appraisers,
26 appoint other appraisers to act in any given case. Vacancies
27 occurring otherwise than by expiration of term shall be filled
28 by appointment of the court. ~~No~~ A person interested in any
29 manner in the estate to be appraised ~~may~~ shall not serve as
30 an appraiser of ~~such~~ that estate.

31 Sec. 11. Section 450.27, Code 1983, is amended to read
32 as follows:

33 450.27 COMMISSION TO APPRAISERS. When an appraisal of
34 ~~any-part-of-an~~ real estate is requested by the department
35 of revenue, as provided in section ~~450-39~~ 450.37, or is

1 otherwise required by this chapter, the clerk shall issue
2 a commission to the appraisers, who shall fix a time and place
3 for appraisal, except that if the only interest that is
4 subject to tax is a remainder or deferred interest upon which
5 the tax is not payable until the determination of a prior
6 estate or interest for life or term of years, he the clerk
7 shall not issue the commission until the determination of
8 the prior estate, except at the request of the department
9 of revenue when the parties in interest who-desire seek to
10 remove an inheritance tax lien.

11 Sec. 12. Section 450.30, Code 1983, is amended to read
12 as follows:

13 450.30 REAL PROPERTY IN DIFFERENT COUNTIES. When If real
14 property is located in more than one county, the appraisers
15 of the county in which the estate is being administered may
16 appraise ~~the-whole~~ all real estate, or those of the several
17 counties may serve for the real property within their
18 respective counties or other appraisers be appointed as the
19 district court may direct.

20 Sec. 13. Section 450.32, Code 1983, is amended to read
21 as follows:

22 450.32 HEARING--ORDER. If upon ~~such~~ the hearing the court
23 finds the amount at which the real property is appraised is
24 its value on the market in the ordinary course of trade, and
25 the appraisal was fairly and in good faith made, it shall
26 approve ~~such~~ the appraisal, ~~but-if-it.~~ If the court finds
27 that the appraisal was made at a greater or ~~less~~ lesser
28 sum than the value of the real property in the ordinary course
29 of trade, or that ~~the-same~~ it was not fairly or in good faith
30 made, it shall set aside the appraisal. Upon ~~said~~ the
31 appraisal being set aside, the court shall fix the value
32 of the real property of ~~said~~ the estate for inheritance tax
33 purposes and the valuation ~~so fixed shall-be~~ is that upon
34 which the tax shall be paid, unless an appeal is taken from
35 the order of ~~said~~ the court as ~~hereinafter~~ provided for in

1 this chapter.

2 Sec. 14. Section 450.36, Code 1983, is amended to read
3 as follows:

4 450.36 APPRAISAL OF OTHER PROPERTY. If there ~~be~~ is an
5 estate or real property subject to ~~said~~ said tax ~~wherein~~ and the
6 records in the clerk's office do not disclose that there may
7 be a tax due under ~~the provisions of~~ this chapter, the ~~person~~
8 ~~or~~ persons interested in the real property shall report the
9 matter to the ~~clerk~~ department of revenue with an ~~application~~
10 a request that the real property be appraised.

11 Sec. 15. Section 450.37, Code 1983, is amended by strik-
12 ing the section and inserting in lieu thereof the following:

13 450.37 VALUE FOR COMPUTING THE TAX.

14 1. Unless the value has been determined under chapter
15 450B, the tax shall be computed based upon one of the
16 following:

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

19 b. The alternate value of the property, if the personal
20 representative so elects, that has been established for federal
21 estate tax purposes under section 2032 of the Internal Revenue
22 Code of 1954 as defined in section 422.4. The election shall
23 be exercised on the return by the personal representative
24 or other person signing the return, within the time prescribed
25 by law for filing the return or before the expiration of any
26 extension of time granted for filing the return.

27 2. Fair market value in the ordinary course of trade shall
28 be established by agreement between the department of revenue,
29 the personal representative, and the persons who have an
30 interest in the property.

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

1 listed on the return is the agreed value of the real property.
2 b. If an agreement is not reached on the fair market value
3 of personal property in the ordinary course of trade, the
4 personal representative or any person interested in the
5 personal property may appeal to the director of revenue for
6 a revision of the department of revenue's determination of
7 the value and after the appeal hearing may seek judicial
8 review of the director's decision. The provisions of section
9 450.94, subsection 3, relating to appeal of a determination
10 of the department and review of the director's decision apply
11 to an appeal and review made under this subsection.

12 Sec. 16. Section 450.44, Code 1983, is amended to read
13 as follows:

14 450.44 REMAINDERS--APPRAISEMENT VALUATION. When any a
15 person, whose estate over and above the amount of that person's
16 ~~debts~~ liabilities, as defined in this chapter, exceeds the
17 sum of ten thousand dollars, ~~shall-bequeath,-devise~~ bequeaths,
18 devises, or otherwise ~~transfer~~ transfers real property to
19 or for the use of persons exempt from the tax imposed by this
20 chapter, during life or for a term of years, and the remainder
21 to persons not thus exempt, this property, upon the
22 determination of the estate for life or years, shall be
23 appraised valued at its then actual market value from which
24 shall be deducted the value of any improvements on it, made
25 by the person who owns the remainder interest during the time
26 of the prior estate, to be ~~ascertained-and~~ determined by-the
27 appraisers as provided in section 450.37, subsection 1,
28 paragraph a, and the tax on the remainder shall be paid by
29 the person who owns the remainder interest as provided in
30 section 450.46.

31 Sec. 17. Section 450.45, Code 1983, is amended to read
32 as follows:

33 450.45 LIFE AND TERM ESTATES--APPRAISEMENT VALUATION.
34 ~~Subject-to-section-450-39-when~~ When an estate or interest
35 for life or term of years in real property is given to a party

1 other than those especially exempt by this chapter, ~~the clerk~~
2 ~~shall cause the property to be appraised at the actual market~~
3 ~~value,~~ shall be valued as provided in section 450.37 as is
4 provided in ordinary cases, and the party entitled to the
5 estate or interest shall, within nine months from the death
6 of decedent owner, pay the tax, and in default the court shall
7 order the estate or interest, or ~~so~~ as much as necessary to
8 pay the tax, penalty, and interest, to be sold.

9 Sec. 18. Section 450.46, Code 1983, is amended to read
10 as follows:

11 450.46 DEFERRED ESTATE--APPRAISEMENT VALUATION. Upon
12 the determination of any prior estate or interest, when the
13 remainder or deferred estate or interest or any part of it
14 is subject to tax and the tax upon the remainder or deferred
15 interest has not been paid, the persons entitled to the
16 remainder or deferred interest shall immediately report to
17 ~~the clerk of the proper court~~ department of revenue the fact
18 of the determination of the prior estate, and upon receipt
19 of the report, or upon information from any source, of the
20 determination of any prior estate when the remainder interest
21 has not been appraised valued for the purpose of assessing
22 tax, ~~the clerk shall forthwith issue a commission to the~~
23 ~~inheritance tax appraisers, who shall immediately proceed~~
24 ~~to appraise~~ the property shall be valued as provided in like
25 cases in section 450.44 and the tax upon the remainder interest
26 shall be paid by the person who owns the remainder interest
27 within nine months after the determination of the prior estate.
28 If the tax is not paid within this time the court shall then
29 order the property, or ~~so~~ as much thereof as may be necessary
30 to pay the tax, penalty, and interest, to be sold.

31 Sec. 19. Section 450.47, Code 1983, is amended to read
32 as follows:

33 450.47 LIFE AND TERM ESTATES IN PERSONAL PROPERTY. ~~Subject~~
34 ~~to section 450.39, when~~ When an estate or interest for life
35 or term of years in personal property is given to one or more

1 persons other than those especially exempt by this chapter
2 and the remainder or deferred estate to others, ~~the clerk~~
3 ~~shall cause~~ the property devised or conveyed ~~to be appraised~~
4 shall be valued under section 450.37 as provided in ordinary
5 estates and the value of the ~~several~~ estates or interests
6 devised or conveyed shall be determined as provided in section
7 450.51, and the tax upon the estates or interests liable for
8 the tax shall be paid to the department of revenue from the
9 property ~~appraised~~ valued or by the persons entitled to the
10 estate or interest within nine months from the death of the
11 testator, grantor, or donor, ~~provided that.~~ However, payment
12 of the tax upon any deferred estate or remainder interest
13 may be deferred until the determination of the prior estate
14 by the giving of a good and sufficient bond as provided in
15 section 450.48.

16 Sec. 20. Section 450.51, Code 1983, is amended to read
17 as follows:

18 450.51 ANNUITIES--LIFE AND TERM ESTATES. The value of
19 any annuity, deferred estate, or interest, or any estate for
20 life or term of years, subject to inheritance tax shall be
21 determined for the purpose of computing ~~said~~ the tax by the
22 use of current, commonly used tables of mortality and actuarial
23 principles pursuant to regulations prescribed by the director
24 of revenue. The taxable value of annuities, life or term,
25 deferred, or future estates, shall be computed at the rate
26 of four percent per annum of the ~~appraised~~ established value
27 of the property in which ~~such~~ the estate or interest exists
28 or is founded.

29 Sec. 21. Section 450.53, Code 1983, is amended to read
30 as follows:

31 450.53 DUTY OF FIDUCIARIES TO PAY TAX. ~~It is the duty~~
32 ~~of all~~ All fiduciaries, except guardians and conservators,
33 ~~or~~ and other persons charged with the management or settlement
34 of any estate or trust from which a tax is due under this
35 chapter, ~~to~~ shall file a ~~final~~ an inheritance tax return with

1 a copy of any federal estate tax return and other documents
2 required by the director which may reasonably tend to prove
3 the amount of tax due, and shall pay to the department of
4 revenue the amount of the tax due from any devisee, grantee,
5 donee, heir, or beneficiary of the decedent, except in cases
6 where payment of the tax is deferred until the determination
7 of a prior estate, in which cases the owner of the future
8 interest shall file a supplemental ~~final~~ inheritance tax
9 return and pay to the department of revenue the tax due.
10 The ~~final~~ inheritance tax returns shall be in the form
11 prescribed by the director.

12 Sec. 22. Section 450.54, Code 1983, is amended to read
13 as follows:

14 450.54 SALE TO PAY TAX. ~~Executors, administrators,~~
15 ~~trustees,~~ Personal representatives or the director of revenue,
16 ~~shall have power to~~ may sell ~~so~~ as much of the property of
17 the decedent as will enable them to pay ~~said~~ the tax, in the
18 same manner as ~~is now~~ provided by law for the sale of ~~such~~
19 that property for the payment of debts of testators or
20 intestates.

21 Sec. 23. Section 450.55, Code 1983, is amended to read
22 as follows:

23 450.55 ACTION MEANS TO COLLECT TAX. ~~The Sections 422.26~~
24 and 422.30, pertaining to the lien except the requirements
25 of recording, collection of tax, jeopardy assessments, and
26 distress warrants, apply to the unpaid tax, penalty, and
27 interest imposed under this chapter. In addition the director
28 of revenue may bring, or cause to be brought in the director's
29 name of office, suit, ~~for~~ for the collection of ~~said~~ the tax,
30 penalty, interest, and costs, against the executor,
31 administrator, or trustee, personal representative or against
32 the person entitled to property subject to ~~said~~ the tax, or
33 upon any bond given to secure payment ~~thereof~~ of the tax,
34 either jointly or severally, and obtaining judgment may cause
35 execution to be issued ~~thereon~~ as is provided by statute in

1 other cases. The proceedings shall conform as nearly as may
2 be to those for the collection of ordinary debt by suit.

3 Sec. 24. Section 450.57, Code 1983, is amended to read
4 as follows:

5 450.57 TAX DEDUCTED FROM LEGACY OR COLLECTED. Every
6 ~~executor, administrator, personal representative or referee,~~
7 ~~or trustee~~ having in charge or trust any property of an estate
8 subject to said tax, ~~and~~ which is made payable by ~~him~~ the
9 personal representative or referee, shall deduct the tax
10 ~~therefrom~~ from the property or shall collect the tax ~~thereon~~
11 from the legatee or person entitled to ~~said~~ the property and
12 pay the ~~same~~ tax to the department of revenue, and ~~he~~ the
13 personal representative or referee shall not deliver any
14 specific legacy or property subject to ~~said~~ tax to any person
15 until ~~he~~ the personal representative or referee has collected
16 the tax ~~thereon~~.

17 Sec. 25. Section 450.58, Code 1983, is amended to read
18 as follows:

19 450.58 FINAL SETTLEMENT TO SHOW PAYMENT. ~~No~~ The final
20 settlement of the account of ~~any executor, administrator,~~
21 ~~or trustee~~ a personal representative shall not be accepted
22 or allowed unless it ~~shall show~~ shows, and the court shall
23 ~~find~~ finds, that all taxes imposed by ~~the provisions of~~ this
24 chapter upon any property or interest ~~therein~~, in property
25 that is ~~hereby~~ made payable by ~~such executors, administrators,~~
26 ~~or trustees,~~ the personal representative and to be settled
27 by ~~said~~ the account, ~~shall have~~ has been paid, and that the
28 receipt of the department of revenue for ~~such~~ the tax shall
29 ~~have been filed with the clerk showing such payment~~ has been
30 obtained as provided in section 450.64. Any order contravening
31 ~~the provision of~~ this section shall ~~be~~ is void. ~~Upon the~~
32 ~~filing of such receipt showing payment of the tax, the clerk~~
33 ~~shall record the same upon the inheritance tax lien book in~~
34 ~~his office.~~

35 Sec. 26. Section 450.61, Code 1983, is amended to read

1 as follows:

2 450.61 ~~BEQUESTS TO EXECUTORS-OR-TRUSTEES~~ PERSONAL REPRESENTATIVE
3 TATIVES. ~~Whenever~~ If a decedent appoints one or more ~~executors~~
4 ~~or-trustees~~ personal representatives and, in lieu of their
5 allowance or commission, makes a bequest or devise of property
6 to them which would otherwise be liable to ~~said~~ tax, or
7 appoints them ~~his~~ residuary legatees, and ~~said~~ the bequests,
8 devises, or residuary legacies exceed the statutory fees as
9 compensation for their services, ~~such~~ the excess ~~shall-be~~
10 is liable to ~~such~~ tax.

11 Sec. 27. Section 450.62, Code 1983, is amended to read
12 as follows:

13 450.62 LEGACIES CHARGED UPON REAL ESTATE. ~~Whenever-any~~
14 If legacies subject to ~~said~~ tax are charged upon or payable
15 out of ~~any~~ real estate, the heir or devisee, before paying
16 the ~~same~~ tax, shall deduct ~~said~~ the tax ~~therefrom~~ from it
17 and pay it to the ~~executor,-administrator,-trustee,~~ personal
18 representative or department of revenue, and the ~~same~~ tax
19 shall remain a charge against and be a lien upon ~~said~~ the
20 real estate until it is paid, ~~and-payment-thereof.~~ Payment
21 of the tax shall be enforced by the ~~executor,-administrator,~~
22 ~~trustee,~~ personal representative or director of revenue as
23 ~~herein~~ provided in this chapter.

24 Sec. 28. Section 450.64, Code 1983, is amended to read
25 as follows:

26 450.64 ~~CLERK-FURNISHED RECEIPT SHOWING PAYMENT~~. Upon
27 payment of ~~such~~ the tax in full the department of revenue
28 shall forthwith transmit a ~~duplicate~~ receipt, ~~to-the-clerk~~
29 ~~of-the-court-of-the-county-in-which-the-estate-is-being~~
30 ~~settled,~~ to the person designated by the taxpayer signing
31 the return showing the payment of ~~such~~ the tax. If the tax
32 is not paid in full, a taxpayer whose tax liability is paid
33 in full may request a receipt as to that taxpayer's share
34 of the tax.

35 Sec. 29. Section 450.71, Code 1983, is amended to read

1 as follows:

2 450.71 PROOF OF AMOUNT OF TAX DUE. Before issuing a
3 receipt for the tax, the director of revenue may demand from
4 ~~administrators, executors, trustees,~~ personal representatives
5 or beneficiaries ~~such~~ information as ~~may-be~~ necessary to
6 verify the correctness of the amount of the tax and interest,
7 and when ~~such~~ this demand is made they shall send to the
8 director of revenue certified copies of wills, deeds, or other
9 papers, or of ~~such~~ those parts of their reports as the director
10 may demand, and upon the refusal or neglect of ~~said~~ the parties
11 to comply with the demand of the director, ~~it-is-the-duty~~
12 ~~of~~ the clerk of the court ~~to~~ shall comply with ~~such~~ the demand,
13 and the expenses of making ~~such~~ copies and transcripts shall
14 be charged against the estate, as are other costs in probate,
15 or the tax may be assessed without deducting ~~debts~~ liabilities
16 for which the estate ~~may-be~~ is liable.

17 Sec. 30. Section 450.86, Code 1983, is amended to read
18 as follows:

19 450.86 SECURITIES AND ASSETS HELD BY BANK, ETC. No A
20 safe deposit company, trust company, bank, or other
21 institution, or person ~~or persons~~ holding securities or assets,
22 exclusive of life insurance policies payable to named
23 beneficiaries, which securities or other assets are located
24 in a safety deposit box or other security enclosure of the
25 decedent, after receiving knowledge of the death shall not
26 deliver or transfer ~~the-same~~ them to the transferee, joint
27 owner, or beneficiary of the decedent unless the tax for which
28 the securities or assets are liable under this chapter is
29 first paid, or the payment ~~thereof~~ is secured by bond as
30 ~~herein~~ provided in this chapter. However, all the contents
31 shall be reported in writing to the department of revenue,
32 and thereafter may be delivered to the ~~executory-administrator,~~
33 ~~or-legal~~ personal representative. ~~It-is-lawful-for-and-the~~
34 ~~duty-of-the~~ The director of revenue, personally, or by any
35 person ~~by-him~~ duly authorized by the director, ~~to~~ shall examine

1 the securities or assets at the time of any a proposed delivery
2 or transfer. Failure to give written notice of the contents
3 of the safety deposit box or other security enclosure to the
4 department of revenue at the time of or prior to the delivery
5 of the securities or assets to the ~~executor, administrator,~~
6 ~~or legal~~ personal representative or transferee, joint owner,
7 or beneficiary ~~shall render~~ renders the safe deposit company,
8 trust company, bank, or other institution, or person ~~or persons~~
9 liable for the payment of the tax upon the securities or
10 assets as provided in this chapter.

11 Sec. 31. Section 450.87, Code 1983, is amended to read
12 as follows:

13 450.87 TRANSFER OF CORPORATION STOCK. If a foreign
14 ~~executor, administrator, or trustee shall assign or transfer~~
15 personal representative assigns or transfers any corporate
16 stock or obligations in this state standing in the name of
17 a decedent, or in trust for a decedent, liable to such tax,
18 the tax shall be paid to the department of revenue on or
19 before the transfer thereof; otherwise the corporation
20 permitting its stock to be ~~so~~ transferred ~~shall be~~ is liable
21 to pay such the tax, interest, and costs, and ~~it is the duty~~
22 ~~of the director of revenue to~~ shall enforce the payment thereof
23 of the tax, interest, and costs.

24 Sec. 32. Section 450.88, Code 1983, is amended to read
25 as follows:

26 450.88 CORPORATIONS TO REPORT TRANSFERS. Every Iowa
27 corporation organized for pecuniary profit shall, on July
28 1 of each year, by its proper officers under oath, make a
29 full and correct report to the director of revenue of all
30 transfers of its stocks made during the preceding year by
31 any person who appears on the books of such the corporation
32 as the owner of such the stock, when such the transfer is
33 made to take effect at or after the death of the owner or
34 transferor, and all transfers which are made by an
35 ~~administrator, executor, trustee,~~ a personal representative,

1 referee, or any person other than the owner or person in whose
2 name the stocks appeared of record on the books of ~~such~~ the
3 corporation, prior to the transfer ~~thereof~~. ~~Such~~ This report
4 shall show the name of the owner of ~~such~~ the stocks and ~~his~~
5 the owner's place of residence, the name of the person at
6 whose request the stock was transferred, ~~his~~ the person's
7 place of residence and the authority by virtue of which ~~he~~
8 the person acted in making ~~such~~ the transfer, the name of
9 the person to whom the transfer was made, and the residence
10 of ~~such~~ the person, together with ~~such~~ other information as
11 the officers reporting may have relating to estates of persons
12 deceased who may have been owners of stock in ~~such~~ the
13 corporation. If it appears that any ~~such~~ stock ~~so~~ transferred
14 is subject to tax under ~~the-provisions-of~~ this chapter, and
15 the tax has not been paid, the director of revenue shall
16 notify the corporation in writing of its liability for the
17 payment ~~thereof~~ of the tax, and shall bring suit against ~~such~~
18 the corporation as in other cases ~~herein-provided~~ unless
19 payment of the tax is made within sixty days from the date
20 of ~~such~~ notice.

21 ~~The-provisions-of-this~~ This section ~~shall~~ does not apply
22 if the lien has been released under ~~the-provisions-of~~ section
23 450.7 or the director has issued a consent to transfer.

24 Sec. 33. Section 450.90, Code 1983, is amended to read
25 as follows:

26 450.90 PROPERTY IN THIS STATE BELONGING TO FOREIGN ESTATE.
27 ~~Whenever-any~~ When property, real or personal, within this
28 state belongs to a foreign estate and ~~said~~ the foreign estate
29 passes in part exempt from the tax imposed by this chapter
30 and in part subject to ~~said~~ the tax and there is ~~no~~ not a
31 specific devise of the property within this state to exempt
32 persons or if it is within the authority or discretion of
33 the foreign ~~executor,-administrator,-or-trustee~~ personal
34 representative administering the estate to dispose of the
35 property not specifically devised to exempt persons in the

1 payment of ~~debts~~ liabilities owing by the decedent at the
2 time of his death, or in the satisfaction of legacies, devises,
3 or trusts given to direct or collateral legatees or devisees
4 or in payment of the distributive shares of any direct and
5 collateral heirs, then the property within the jurisdiction
6 of this state belonging to ~~such~~ the foreign estate ~~shall be~~
7 is subject to the tax imposed by this chapter, and the tax
8 due ~~thereon~~ shall be assessed as provided in section 450-89
9 450.12, subsection 2, relating to the deduction of the
10 proportionate share of ~~indebtedness, provided, however, that~~
11 liabilities. However, if the value of the property so situated
12 exceeds the total amount of the estate passing to other persons
13 than those exempt ~~hereby~~ from the tax imposed by this chapter,
14 ~~such~~ the excess ~~shall~~ is not be subject to said tax.

15 Sec. 34. Section 450.94, subsection 2, Code 1983, is
16 amended to read as follows:

17 2. The taxpayer shall file a ~~final~~ an inheritance tax
18 return on forms to be prescribed by the director of revenue.
19 When a ~~final~~ an inheritance tax return is filed, the department
20 shall examine it and determine the correct amount of tax.
21 If the amount paid is less than the correct amount due, the
22 department shall notify the taxpayer of the total amount due
23 together with any penalty and interest ~~thereon,~~ which shall
24 be a sum certain if paid on or before the last day of the
25 month in which the notice is postmarked, or on or before the
26 last day of the following month if the notice is postmarked
27 after the twentieth day of a month and before the first day
28 of the following month.

29 Sec. 35. Section 450.96, Code 1983, is amended to read
30 as follows:

31 450.96 CONTINGENT ESTATES. Estates in expectancy which
32 are contingent or defeasible and in which proceedings for
33 the determination of the tax have not been taken or where
34 the taxation ~~thereof~~ has been held in abeyance, shall be
35 appraised valued at their full, undiminished value when the

1 persons entitled ~~thereto-shall~~ to the estates come into the
2 beneficial enjoyment or possession ~~thereof~~ of the estates,
3 without diminution for or on account of any valuation
4 ~~theretofore-made-of-the-particular-estates-for-purposes-of~~
5 ~~taxation,-upon-which-said-estates-in-expectancy-may-have-been~~
6 ~~limited~~ previously made. When an estate, devise, or legacy
7 can be divested by the act or omission of the legatee or
8 devisee, it shall be taxed as if there were no possibility
9 of ~~such~~ the divesting. When a devise, bequest, or transfer
10 is one in part contingent, and in part vested so that the
11 beneficiary will come into possession and enjoyment of a
12 portion of ~~his~~ the inheritance on or before the happening
13 of the event upon which the possible defeating contingency
14 is based, a tax shall be imposed and collected upon ~~such~~ the
15 bequest or transfer as upon a vested interest, at the highest
16 rate possible under ~~the-terms-of~~ this chapter if no ~~such~~
17 contingency existed; provided that ~~in-the-event-such~~ if the
18 contingency reduces the value of the estate or interest ~~so~~
19 taxed, and the amount of tax ~~so~~ paid is in excess of the tax
20 for which ~~such~~ the bequest or transfer is liable upon the
21 removal of ~~such~~ the contingency, ~~such~~ the excess shall be
22 refunded as ~~is~~ provided in sections 450.94 and 450.95 in other
23 cases.

24 Sec. 36. Section 633.361, unnumbered paragraph 2, Code
25 1983, is amended by striking the unnumbered paragraph.

26 Sec. 37. Sections 450.13, 450.14, 450.15, 450.18, 450.19,
27 450.38, 450.39, 450.56, 450.72, 450.73, and 450.89, Code 1983,
28 are repealed.

29 Sec. 38. This Act, except for section 23, applies to the
30 estates of persons dying on or after its effective date.

31 Sec. 39. Section 23 of this Act applies to taxes,
32 penalties, and interest still owing on the effective date
33 of this Act and to taxes, penalties, and interest becoming
34 due on or after that effective date.

35

EXPLANATION

1 The bill amends the state inheritance tax, chapter 450,
 2 by eliminating the requirement that a preliminary inventory
 3 and inheritance tax return be filed. Only a final inheritance
 4 tax return is required to be filed. Personal property of
 5 an estate will not be appraised; only real property need be
 6 appraised. Valuation of property will be based upon the fair
 7 market value in the ordinary course of trade. However, the
 8 personal representative may elect to value property at the
 9 alternative value established for federal estate tax purposes.
 10 This alternative value is the fair market value at a date
 11 six months after the death of the decedent rather than at
 12 the date of the death of the decedent. The bill also lists
 13 the liabilities of a decedent which can be deducted in
 14 computing the tax. References in the chapter to administrator,
 15 executor, or trustee have been changed to personal
 16 representative. Provision has been added to give the director
 17 of revenue the same powers to collect the inheritance tax
 18 as the director has for collection of income taxes. These
 19 additional powers include use of jeopardy assessments and
 20 distress warrants for collection of unpaid taxes, penalty,
 21 and interest. Coordinating amendments are made throughout
 22 chapter 450. References are made within the sections to other
 23 sections as amended by the bill.

24 The bill takes effect July 1 following enactment for estates
 25 of persons dying on or after July 1 except for the additional
 26 collection powers which will apply to taxes unpaid on the
 27 effective date or which become due after that date.

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DAILY
HOUSE CLIP SHEET

TUESDAY, MAY 3, 1983

HOUSE FILE 635
FISCAL NOTE

REQUESTED BY REPRESENTATIVE GRONINGA

In compliance with a written request received May 2, 1983, there is hereby submitted a Fiscal Note for House File 635 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

House File 635 eliminates the requirement that a preliminary inventory and inheritance tax return be filed. Only a final inheritance tax return is required to be filed. Personal property of an estate will not be appraised; only real property need be appraised. Valuation of property will be based upon the fair market value in the ordinary course of trade. However, the personal representative may elect to value property at the alternative value established for federal estate tax purposes. This alternative value is the fair market value at a date six months after the death of the decedent rather than at the date of the death of the decedent. The bill also lists the liabilities of a decedent which can be deducted in computing the tax. References in the chapter to administrator, executor, or trustee have been changed to personal representative. Provision has been added to give the director of revenue the same powers to collect the inheritance tax as the director has for collection of income taxes. These additional powers include use of jeopardy assessments and distress warrants for collection of unpaid taxes, penalty, and interest.

Fiscal Impact: The bill will have no effect on inheritance tax receipts. There will be considerable administrative savings for the department in postage, clerical expense in typing receipts and printing costs. There will be increased efficiency in auditing the inheritance tax return. Audits will be done once, not twice, and by the same examiner. It is estimated the estates will save half of the 2.5 million now being spent on the inheritance tax appraisal system.

Conforming the deductions to the federal estate tax system, will save estates time in preparing the inheritance tax return. Reducing the number of appraisals will save both the department and the estates the expense of a District Court lawsuit to resolve appraisal disputes.

(1717H, 83-496, CMG)

Source: Department of Revenue

FILED MAY 2, 1983

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 635

AN ACT

RELATING TO THE STATE INHERITANCE TAX BY ELIMINATING THE PRELIMINARY INHERITANCE TAX RETURN, SPECIFYING THE VALUE TO USE IN COMPUTING THE TAX, PROVIDING FOR INHERITANCE TAX RECEIPTS AND COLLECTION OF THE TAX, INCLUDING PENALTIES AND INTEREST AND MAKING COORDINATING AMENDMENTS.

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

Section 1. Section 331.704, subsection 2, paragraph 1, Code 1983, is amended by striking the paragraph.

Sec. 2. Section 450.1, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this chapter, unless the context otherwise requires, "personal representative" means an executor, administrator, or trustee as each is defined in section 633.3.

Sec. 3. Section 450.4, subsection 1, Code 1983, is amended to read as follows:

1. When the entire estate of the decedent does not exceed the sum of ten thousand dollars after deducting the debts liabilities, as defined in this chapter.

Sec. 4. Section 450.5, Code 1983, is amended to read as follows:

450.5 LIABILITY FOR TAX. Any person becoming beneficially entitled to any property or interest therein in property by any method of transfer as herein specified in this chapter, and all administrators, executors, personal representatives and referees, and trustees of estates or transfers taxable under the provisions of this chapter, shall be are respectively liable for all such taxes to be paid by them respectively.

Sec. 5. Section 450.7, subsection 3, Code 1983, is amended to read as follows:

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 ~~such a~~ 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. ~~Whenever there is a change in the status, type, or nature of the assets reported in the preliminary inventory, the change shall be reported on or before the filing of the final report when required by the department of revenue.~~

Sec. 6. Section 450.12, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

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:

The debts owing by the decedent at the time of death, the local and state taxes accrued before the decedent's death, the federal estate tax and federal taxes owing by the decedent, a reasonable sum for funeral expenses, the allowance for surviving spouse and minor children granted by the probate court or its judge, court costs, the costs of appraisal made for the purpose of assessing the inheritance tax, the fee of personal representatives as allowed by order of court, the amount paid by the personal representatives for a bond, the attorney's fee in a reasonable amount to be approved by the court for the probate proceedings in the estate, the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses.

A liability shall not be deducted unless the personal representative certifies that it has been paid or, if not paid, the director of revenue is satisfied that it will be paid.

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.

Sec. 7. Section 450.17, Code 1983, is amended to read as follows:

450.17 CONVEYANCE--EFFECT. When ~~said~~ real estate or any ~~an~~ interest ~~therein~~ in real estate is subject to ~~such~~ tax, ~~no~~ a conveyance ~~either-before-or-after-the-entering-of-said~~ ~~lien~~, ~~shall~~ does not discharge the real estate ~~so~~ conveyed from ~~said~~ the lien except as provided in section 450.7.

Sec. 8. Section 450.21, Code 1983, is amended to read as follows:

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 ~~the-provisions-of~~ this chapter, a will disposing of ~~such~~ the estate is not offered for probate, or an application for administration made within four months from the time of ~~such~~ the decease, the director of revenue

may, at any time thereafter, make application to the proper court, setting forth ~~such~~ that fact and ~~praying~~ requesting that ~~an-administrator-may~~ a personal representative be appointed, and ~~thereupon-said~~ the court shall appoint ~~an administrator~~ a personal representative to administer upon ~~such~~ the estate.

Sec. 9. Section 450.22, Code 1983, is amended to read as follows:

450.22 ADMINISTRATION AVOIDED. When the heirs or persons entitled to inherit the property of an estate subject to ~~the~~ tax ~~hereby-imposed~~ under this chapter, desire to avoid the appointment of ~~an-administrator~~ a personal representative as provided in section 450.21, and in all instances where real estate is involved and ~~no~~ regular probate proceedings are not had, they or one of them shall file under oath the inventories required by section 633.361 and reports and perform all the duties required by this chapter, ~~of-administrators,~~ including-the-filing-of-the-lien of the personal representative and file the inheritance tax return. Proceedings for the collection of the tax when ~~no-administrator~~ a personal representative is not appointed, shall conform as nearly as may be to the provisions of this chapter in other cases.

Sec. 10. Section 450.24, Code 1983, is amended to read as follows:

450.24 APPRAISERS. In each county the court shall, on or before January 15 of each year, appoint three competent residents and freeholders of ~~said~~ the county to act as appraisers of ~~all~~ the real property within its jurisdiction which is charged or sought to be charged with an inheritance tax. ~~Said~~ The appraisers shall serve for one year, 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 court. The court may also in its 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 court. No A person interested in any manner in the estate to be appraised ~~may~~ shall not serve as an appraiser of ~~such that~~ estate.

Sec. 11. Section 450.27, Code 1983, is amended to read as follows:

450.27 COMMISSION TO APPRAISERS. When an appraisal of ~~any-part-of-an~~ real estate is requested by the department of revenue, as provided in section ~~450.39~~ 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, ~~he~~ 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 who-desire seek to remove an inheritance tax lien.

Sec. 12. Section 450.30, Code 1983, is amended to read as follows:

450.30 REAL PROPERTY IN DIFFERENT COUNTIES. ~~When if~~ real property is located in more than one county, the appraisers of the county in which the estate is being administered may appraise ~~the-whole~~ 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.

Sec. 13. Section 450.32, Code 1983, is amended to read as follows:

450.32 HEARING--ORDER. If upon ~~such~~ 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 appraisement was fairly and in good faith made, it shall approve ~~such the~~ appraisement, ~~but-if-it~~. If the court finds that the appraisement was made at a greater or less lesser sum than the value of the real property in the ordinary course of trade, or that ~~the-same~~ it was not fairly or in good faith made, it shall set aside the appraisement. Upon ~~said~~ the appraisement being set aside, the court shall fix the value of the real property of ~~said~~ the estate for inheritance tax purposes and the valuation ~~so fixed shall-be~~ is that upon which the tax shall be paid, unless an appeal is taken from the order of ~~said~~ the court as ~~hereinafter~~ provided for in this chapter.

Sec. 14. Section 450.36, Code 1983, is amended to read as follows:

450.36 APPRAISAL OF OTHER PROPERTY. If there ~~be~~ is an estate or real property subject to ~~said~~ tax ~~wherein~~ and the records in the clerk's office do not disclose that there may be a tax due under ~~the-provisions-of~~ this chapter, the ~~person~~ or persons interested in the real property shall report the matter to the ~~clerk~~ department of revenue with ~~an-application~~ a request that the real property be appraised.

Sec. 15. Section 450.37, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

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 of 1954 as defined in section 422.4. 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 in the ordinary course of trade shall be established by agreement 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 thirty days after the return is filed to request an appraisal under section 450.27. If an appraisal request is not made within the thirty-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.

Sec. 16. Section 450.44, Code 1983, is amended to read as follows:

450.44 REMAINDERS--APPRAISEMENT VALUATION. When any a person, whose estate over and above the amount of that person's ~~debts liabilities~~, as defined in this chapter, exceeds the sum of ten thousand dollars, ~~shall bequeath, devise bequeaths, devises, or otherwise transfer 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 appraised 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 ~~ascertained and determined by the appraisers 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.

Sec. 17. Section 450.45, Code 1983, is amended to read as follows:

450.45 LIFE AND TERM ESTATES--APPRAISEMENT VALUATION. ~~Subject to section 450.39 when~~ When an estate or interest for life or term of years in real property is given to a party other than those especially exempt by this chapter, ~~the clerk shall cause the property to be appraised at the actual market value,~~ 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, within nine months from the death of decedent owner, pay the tax, and in default the court shall order the estate or interest, or ~~so~~ as much as necessary to pay the tax, penalty, and interest, to be sold.

Sec. 18. Section 450.46, Code 1983, is amended to read as follows:

450.46 DEFERRED ESTATE--APPRAISEMENT VALUATION. Upon the determination of any prior estate or interest, when the remainder or deferred estate or interest or any 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 clerk of the proper court~~ 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 any prior estate when the remainder interest has not been appraised valued for the purpose of assessing tax, ~~the clerk shall forthwith issue a commission to the inheritance tax appraisers, who shall immediately proceed to appraise~~ 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 within nine months after the determination of the prior estate. If the tax is not paid within this time the court shall then order the property, or ~~so~~ as much thereof as may be necessary to pay the tax, penalty, and interest, to be sold.

Sec. 19. Section 450.47, Code 1983, is amended to read as follows:

450.47 LIFE AND TERM ESTATES IN PERSONAL PROPERTY. ~~Subject to section 450.39, when~~ When an estate or interest for life or term of years in personal property is given to one or more persons other than those especially exempt by this chapter and the remainder or deferred estate to others, ~~the estate shall cause~~ the property devised or conveyed ~~to be appraised~~ shall be valued under section 450.37 as provided in ordinary estates and the value of the ~~several~~ 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 ~~appraised~~ valued or by the persons entitled to the estate or interest within nine months from the death of the testator, grantor, or donor, ~~provided, that,~~ However, payment of the tax upon any 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.

Sec. 20. Section 450.51, Code 1983, is amended to read as follows:

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 said 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 appraised established value of the property in which such the estate or interest exists or is founded.

Sec. 21. Section 450.53, Code 1983, is amended to read as follows:

450.53 DUTY OF ~~FIDUCIARIES~~ PERSONAL REPRESENTATIVES TO PAY TAX. ~~It is the duty of all fiduciaries~~ All personal representatives, except guardians and conservators, ~~or~~ and other persons charged with the management or settlement of any estate or trust from which a tax is due under this chapter, ~~to shall~~ shall file ~~a final~~ an inheritance tax return 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 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, in which cases the owner of the future interest shall file a supplemental ~~final~~ inheritance tax return and pay to the department of revenue the tax due. The ~~final~~ inheritance tax returns shall be in the form prescribed by the director.

Sec. 22. Section 450.54, Code 1983, is amended to read as follows:

450.54 SALE TO PAY TAX. ~~Executors, administrators, trustees,~~ Personal representatives or the director of revenue, ~~shall have power to~~ may sell ~~so~~ as much of the property of the decedent as will enable them to pay said the tax, in the same manner as ~~is now~~ provided by law for the sale of such that property for the payment of debts of testators or intestates.

Sec. 23. Section 450.55, Code 1983, is amended to read as follows:

450.55 ACTION MEANS TO COLLECT TAX. ~~The Sections 422.26 and 422.30, pertaining to the lien except the requirements~~

of recording, collection of tax, 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 said the tax, penalty, interest, and costs, against the executor, administrator, or trustee, personal representative or against the person entitled to property subject to said the tax, or upon any bond given to secure payment thereof of the tax, either jointly or severally, and obtaining judgment may cause execution to be issued thereon 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.

Sec. 24. Section 450.57, Code 1983, is amended to read as follows:

450.57 TAX DEDUCTED FROM LEGACY OR COLLECTED. Every executor, administrator, personal representative or referee, or trustee having in charge or trust any property of an estate subject to said tax, and which is made payable by him the personal representative or referee, shall deduct the tax therefrom from the property or shall collect the tax thereon from the legatee or person entitled to said the property and pay the same tax to the department of revenue, and he the personal representative or referee shall not deliver any specific legacy or property subject to said tax to any person until he the personal representative or referee has collected the tax thereon.

Sec. 25. Section 450.58, Code 1983, is amended to read as follows:

450.58 FINAL SETTLEMENT TO SHOW PAYMENT. No the final settlement of the account of any executor, administrator, or trustee a personal representative shall not be accepted or allowed unless it shall show shows, and the court shall find finds, that all taxes imposed by the provisions of this chapter upon any property or interest therein, in property

that is hereby made payable by such executors, administrators, or trustees, the personal representative and to be settled by said the account, shall have has been paid, and that the receipt of the department of revenue for such the tax shall have been filed with the clerk showing such payment has been obtained as provided in section 450.64. Any order contravening the provision of this section shall be is void. Upon the filing of such receipt showing payment of the tax, the clerk shall record the name upon the inheritance tax lien book in his office.

Sec. 26. Section 450.61, Code 1983, is amended to read as follows:

450.61 BEQUESTS TO EXECUTORS OR TRUSTEES PERSONAL REPRESENTATIVES. Whenever if a decedent appoints one or more executors or trustees 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 said tax, or appoints them his residuary legatees, and said the bequests, devises, or residuary legacies exceed the statutory fees as compensation for their services, such the excess shall be is liable to such tax.

Sec. 27. Section 450.62, Code 1983, is amended to read as follows:

450.62 LEGACIES CHARGED UPON REAL ESTATE. Whenever any if legacies subject to said tax are charged upon or payable out of any real estate, the heir or devisee, before paying the same tax, shall deduct said the tax therefrom from it and pay it to the executor, administrator, trustee, personal representative or department of revenue, and the same tax shall remain a charge against and be a lien upon said the real estate until it is paid, and payment thereof. Payment of the tax shall be enforced by the executor, administrator, trustee, personal representative or director of revenue as herein provided in this chapter.

Sec. 28. Section 450.64, Code 1983, is amended to read as follows:

450.64 ~~EBANK-FURNISHED RECEIPT SHOWING PAYMENT.~~ Upon payment of ~~such~~ the tax in full the department of revenue shall forthwith transmit a ~~duplicate receipt, to the clerk of the court of the county in which the estate is being settled,~~ to the person designated by the taxpayer signing the return showing the payment of such 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.~~

Sec. 29. Section 450.71, Code 1983, is amended to read as follows:

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

Sec. 30. Section 450.86, Code 1983, is amended to read as follows:

450.86 SECURITIES AND ASSETS HELD BY BANK, ETC. ~~No~~ A safe deposit company, trust company, bank, or other institution, ~~or~~ person or persons holding securities or assets, exclusive of life insurance policies payable to named beneficiaries, which securities or other assets are located

in a safety deposit box or other security enclosure of the decedent, after receiving knowledge of the death shall not deliver or transfer ~~the same~~ them to the transferee, joint owner, or beneficiary of the decedent unless the tax for which the securities or assets are liable under this chapter is first paid, or the payment thereof is secured by bond as ~~herein~~ provided in this chapter. However, all the contents shall be reported in writing to the department of revenue, and thereafter may be delivered to the ~~executor, administrator,~~ or legal personal representative. ~~It is lawful for and the duty of the~~ The director of revenue, personally, or by any person ~~by him~~ duly authorized by the director, ~~to~~ shall examine the securities or assets at the time of ~~any~~ a proposed delivery or transfer. Failure to give written notice of the contents of the safety deposit box or other security enclosure to the department of revenue at the time of or prior to the delivery of the securities or assets to the ~~executor, administrator,~~ or legal personal representative or transferee, joint owner, or beneficiary ~~shall render~~ renders the safe deposit company, trust company, bank, or other institution, ~~or~~ person or persons liable for the payment of the tax upon the securities or assets as provided in this chapter.

Sec. 31. Section 450.87, Code 1983, is amended to read as follows:

450.87 TRANSFER OF CORPORATION STOCK. If a foreign ~~executor, administrator, or trustee shall assign or transfer~~ 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 ~~such~~ tax, the tax shall be paid to the department of revenue on or before the transfer thereof; otherwise the corporation permitting its stock to be ~~so~~ transferred ~~shall be~~ is liable to pay ~~such~~ the tax, interest, and costs, and ~~it is the duty~~ of the director of revenue to shall enforce the payment thereof ~~of the tax, interest, and costs.~~

Sec. 32. Section 450.88, Code 1983, is amended to read as follows:

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 such the corporation as the owner of such the stock, when such the transfer is made to take effect at or after the death of the owner or transferor, and all transfers which are made by an ~~administrator, executor, trustee,~~ 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 such the corporation, prior to the transfer ~~thereof~~. Such the report shall show the name of the owner of such the stocks and ~~his~~ the owner's place of residence, the name of the person at whose request the stock was transferred, ~~his~~ the person's place of residence and the authority by virtue of which he the person acted in making such the transfer, the name of the person to whom the transfer was made, and the residence of such the person, together with such other information as the officers reporting may have relating to estates of persons deceased who may have been owners of stock in such the corporation. If it appears that any such stock ~~is~~ transferred is subject to tax under ~~the provisions of~~ 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 ~~thereof of the tax~~, and shall bring suit against such the corporation as in other cases ~~herein provided~~ unless payment of the tax is made within sixty days from the date of such notice.

~~The provisions of this~~ This section shall ~~does~~ not apply if the lien has been released under ~~the provisions of~~ section 450.7 or the director has issued a consent to transfer.

Sec. 33. Section 450.90, Code 1983, is amended to read as follows:

450.90 PROPERTY IN THIS STATE BELONGING TO FOREIGN ESTATE. ~~Whenever any~~ When property, real or personal, within this state belongs to a foreign estate and ~~said the~~ the foreign estate passes in part exempt from the tax imposed by this chapter and in part subject to ~~said the~~ the tax and there is ~~no 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 ~~executor, administrator, or trustee~~ personal representative administering the estate to dispose of the property not specifically devised to exempt persons in the payment of ~~debts liabilities~~ owing by the decedent at the time of ~~his~~ 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 such the foreign estate shall be ~~is~~ subject to the tax imposed by this chapter, and the tax due ~~thereon~~ shall be assessed as provided in section ~~450.89~~ 450.12, subsection 2, relating to the deduction of the proportionate share of ~~indebtedness, provided, however, that~~ liabilities. However, if the value of the property so situated exceeds the total amount of the estate passing to other persons than those exempt ~~hereby~~ from the tax imposed by this chapter, such the excess shall ~~is~~ not be subject to ~~said~~ tax.

Sec. 34. Section 450.94, subsection 2, Code 1983, is amended to read as follows:

2. The taxpayer shall file ~~a final~~ an inheritance tax return on forms to be prescribed by the director of revenue. When a final 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 ~~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.

Sec. 35. Section 450.96, Code 1983, is amended to read as follows:

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 thereof has been held in abeyance, shall be appraised valued at their full, undiminished value when the persons entitled thereto shall to the estates come into the beneficial enjoyment or possession thereof of the estates, without diminution for or on account of any valuation theretofore-made-of-the-particular-estates-for-purposes-of taxation, upon which said estates in expectancy may have been limited 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 such 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 his 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 such the bequest or transfer as upon a vested interest, at the highest rate possible under the-terms-of this chapter if no such contingency existed; provided that in-the-event-such if the contingency reduces the value of the estate or interest so taxed, and the amount of tax so paid is in excess of the tax for which such the bequest or transfer is liable upon the removal of such the contingency, such the excess shall be refunded as is provided in sections 450.94 and 450.95 in other cases.

Sec. 36. Section 633.361, unnumbered paragraph 2, Code 1983, is amended by striking the unnumbered paragraph.

Sec. 37. Sections 450.13, 450.14, 450.15, 450.18, 450.19, 450.38, 450.39, 450.56, 450.72, 450.73, and 450.89, Code 1983, are repealed.

Sec. 38. This Act, except for section 23, applies to the estates of persons dying on or after its effective date.

Sec. 39. Section 23 of this Act applies to taxes, penalties, and interest still owing on the effective date of this Act and to taxes, penalties, and interest becoming due on or after that effective date.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 635, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved *June 6*, 1983

TERRY E. BRANSTAD
Governor