

House Study Bill 505 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to the inheritance tax by modifying the
2 requirements to qualify for a deferment of tax payment under
3 certain circumstances in the case of estates with a deferred
4 estate or remainder interest, and including applicability
5 provisions.

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

1 Section 1. Section 450.20, Code 2018, is amended to read as
2 follows:

3 **450.20 Record of deferred estates.**

4 The department of revenue shall keep a separate record of
5 any deferred estate upon which the tax due is not paid on or
6 before the last day of the ninth month after the death of the
7 decedent, showing substantially the same facts as are required
8 in other cases, and also showing:

9 1. The date and amount of all bonds given to secure the
10 payment of the tax with a list of the sureties thereon.

11 2. The type and amount of any security, other than a bond,
12 given to secure the payment of the tax.

13 ~~2.~~ 3. The name of the person beneficially entitled to such
14 estate or interest, with place of residence.

15 ~~3.~~ 4. A description of the property or a statement of
16 conditions upon which such deferred estate is based or limited.

17 Sec. 2. Section 450.47, Code 2018, is amended to read as
18 follows:

19 **450.47 Life and term estates in personal property.**

20 If an estate or interest for life or term of years in
21 personal property is given to one or more persons other than
22 those exempt by [this chapter](#) and the remainder or deferred
23 estate to others, the property devised or conveyed shall be
24 valued under [section 450.37](#) as provided in ordinary estates
25 and the value of the estates or interests devised or conveyed
26 shall be determined as provided in [section 450.51](#), and the
27 tax upon the estates or interests liable for the tax shall be
28 paid to the department of revenue from the property valued
29 or by the persons entitled to the estate or interest on or
30 before the last day of the ninth month after the death of the
31 testator, grantor, or donor. However, payment of the tax upon
32 a deferred estate or remainder interest may be deferred until
33 the determination of the prior estate ~~by the giving of a good~~
34 ~~and sufficient bond~~ as provided in [section 450.48](#).

35 Sec. 3. Section 450.48, Code 2018, is amended to read as

1 follows:

2 **450.48 Payment deferred — bond — exceptions.**

3 1. When Except as provided in subsection 2, when in case of
4 deferred estates or remainder interests in personal property or
5 in the proceeds of any real estate that may be sold during the
6 time of a life, term, or prior estate, the persons interested
7 who may desire to defer the payment of the tax until the
8 determination of the prior estate, shall file with the clerk
9 of the proper district court a bond as provided herein in
10 other cases, such bond to be renewed every two years until the
11 tax upon such deferred estate is paid. If at the end of any
12 two-year period the bond is not promptly renewed as herein
13 provided and the tax has not been paid, the bond shall be
14 declared forfeited, and the amount thereof forthwith collected.

15 2. When the estate of a decedent ~~consists in part of real~~
16 ~~and in part of personal property, and there be includes~~ an
17 estate for life or for a term of years to one or more persons
18 and a deferred or remainder estate to others, and such deferred
19 or remainder estate is in whole or in part subject to the tax
20 imposed by **this chapter**, if the then payment of the tax upon
21 such deferred or remainder estates may be postponed until the
22 determination of the prior estate without giving bond to secure
23 payment of such tax as required under subsection 1 if one of
24 the following requirements is satisfied:

25 a. The deferred or remainder estates or interests are so
26 disposed that good and sufficient security for the payment of
27 the tax for which such deferred or remainder estates may be
28 liable can be had because of the lien imposed by **this chapter**
29 upon the real property of such estate, ~~then payment of the tax~~
30 ~~upon such deferred or remainder estates may be postponed until~~
31 ~~the determination of the prior estate without giving bond as~~
32 ~~herein required to secure payment of such tax, and but the tax~~
33 shall remain a lien upon such real estate until the tax upon
34 such deferred estate or interest is paid.

35 b. Security satisfactory to the department of revenue has

1 been provided, which security includes but is not limited to a
2 bank or securities account with an irrevocable pay on death or
3 transfer on death provision naming the department of revenue
4 as beneficiary, or an escrow agreement with the department of
5 revenue under which a private attorney will act as escrow agent
6 and hold the escrow funds in the attorney's trust account.

7 Sec. 4. APPLICABILITY. This Act applies to estates of
8 decedents that include a deferred estate or remainder interest
9 and that have not, on or before July 1, 2018, received approval
10 from the department of revenue to defer payment of tax pursuant
11 to sections 450.44 through 450.49.

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to the inheritance tax. An estate
16 subject to the inheritance tax may contain a deferred estate
17 or remainder interest, which generally occurs when property is
18 transferred to a person for a certain period of time, and then
19 to a different person (remainderman) at the expiration of that
20 time. Under Iowa law, the inheritance tax accrues at the date
21 of death of the decedent and is due on or before the last day of
22 the ninth month following that date. However, the payment of
23 inheritance tax may be deferred for a remainderman until such
24 time as the property actually passes to that person.

25 When inheritance tax deferral is elected, Iowa law requires
26 that a bond be given to secure the payment of the tax unless the
27 estate contains real property and the automatic lien on such
28 real property is sufficient to secure payment of the deferred
29 tax.

30 The bill provides that, in lieu of a bond, an estate
31 containing personal property, real property, or a mix of
32 both, may provide other security to secure payment of the
33 deferred tax. The bill provides that the other security must
34 be satisfactory to the department of revenue (DOR). The bill
35 includes as examples of other security a bank or securities

1 account with an irrevocable pay-on-death or transfer-on-death
2 provision naming DOR as beneficiary, or an escrow agreement
3 with DOR under which a private attorney will act as escrow
4 agent and hold the escrow funds in the attorney's trust
5 account.

6 The bill requires that a description of the type and amount
7 of the other security be added to the record of the deferred
8 estate required to be kept under Code section 450.20.

9 The bill applies to estates of decedents that include a
10 deferred estate or remainder interest and that have not, on
11 or before July 1, 2018, received approval from DOR to defer
12 payment of the inheritance tax.