

CHAPTER 68.

ASSESSMENT AND COLLECTION OF A TAX UPON COLLATERAL ESTATES, ANNUITIES, LEGACIES, BEQUESTS, GIFTS, TRANSFERS AND INHERITANCES.

S. F. 336.

AN ACT relating to the assessment and collection of a tax upon collateral estates, annuities, legacies, bequests, gifts, transfers, and inheritances, and repealing the law as it appears in chapter four (4), of title seven (7), of the supplement to the code, 1907, and chapter ninety-two (92) of the acts of the thirty-third (33) general assembly and to enact a substitute therefor.

Be it enacted by the General Assembly of the State of Iowa:

N. 1913
§. 120. SECTION 1. **Property subject to tax—rate.** The estates of all deceased persons, whether they be inhabitants of this state or not, and whether such estate consists of real, personal or mixed property, tangible or intangible, and any interest in, or income from any such estate or property, which property is, at the death of the decedent owner, within this state or is subject to, or thereafter, for the purpose of distribution, is brought within this state and becomes subject to the jurisdiction of the courts of this state, or the property of any decedent, domiciled within this state at the time of the death of such decedent, even though the property of such decedent so domiciled was situated outside of the state, except real estate located outside of the state passing in fee from the decedent owner, which shall pass by will or by the statutes of inheritance of this or any other state or country, or by deed, grant, sale, gift, or transfer made in contemplation of the death of the donor, or made or intended to take effect in possession or enjoyment after the death of the grantor or donor, to any person, or for any use in trust or otherwise, other than to or for the use of persons, or uses exempt by this act shall be subject to a tax of five (5) per centum; provided, however, that when property or any interest therein shall pass to heirs, devisees or other beneficiaries subject to the tax imposed by this act who are aliens, non-residents of the United States, the same shall be subject to a tax of twenty (20) per centum of its true value except when such foreign beneficiaries are brothers or sisters of the decedent owner, when the rate of tax to be assessed and collected therefrom shall be ten (10) per centum of the value of the property or interest so passing. Any person beneficially entitled to any property or interest therein because of any such gift, legacy, devise, annuity, transfer or inheritance, and all administrators, executors, referees and trustees, and any such grantee under a conveyance, and any such donee under a gift, and any such legatee, annuitant, devisee, heir or beneficiary, shall be respectively liable for all such taxes to be paid by them respectively. The tax aforesaid shall be for the use of the state, shall accrue at the death of the decedent owner, and shall be paid to the treasurer of state within eighteen (18) months thereafter, except when otherwise provided in this act, and shall be and remain a legal charge against and a lien upon such estate, and any and all of the property thereof from the death of the decedent owner until paid.

SEC. 2. **Exceptions.** The tax imposed by this act shall not be collected,

1st. When the entire estate of the decedent does not exceed the sum of one thousand dollars (\$1,000) after deducting the debts as defined in this act.

2nd. When the property passes to the husband or wife.

3rd. When the property passes to the father, mother, lineal descendant, adopted child, or the lineal descendant of an adopted child of decedent.

4th. When the property passes to educational and religious societies or institutions, public libraries and public art galleries within this state and open to the free use of the public.

5th. Property passing to or for hospitals within this state open to the public, and not operated for gain, or to societies within this state organized for purposes of public charity, including cemetery associations, but not including societies maintained by fees, dues, or assessments in whose benefits the public may not share.

6th. Bequests for the care and maintenance of the cemetery or burial lot of decedent and his family, and bequests not to exceed five hundred dollars (\$500.00) in any estate, to or for the performance of a religious service or services by some person regularly ordained, authorized or licensed by any religious society to perform such service to be performed for or in behalf of the testator, or some person named in his last will, provided such person so named is, or would be exempt from the tax imposed by this act.

7th. When the property passes to a municipal or political corporation within this state for a purely public purpose.

SEC. 3. "**Debts**" defined. The term "debts" as used in this act shall include, in addition to debts owing by the decedent at the time of his death, the local or state taxes due from the estate in January of the year of his death, a reasonable sum for funeral expenses, court costs, the cost of appraisal made for the purpose of assessing the collateral inheritance tax, the statutory fees of executors, administrators, or trustees estimated upon the appraised value of the property, the amount paid by the executor or administrator for a bond, the attorney fee in a reasonable amount, to be approved by the court, for the ordinary probate proceedings in said estate and no other sum; but said debts shall not be deducted unless the same are approved and allowed by the court within eighteen (18) months from the death of the decedent, as established claims against the estate, unless otherwise ordered by the judge or court of the proper county.

SEC. 4. **Administrator appointed on application of treasurer of state—non-resident administrators or executors to file bond before appointed.** If upon the death of any person leaving an estate that may be liable to a tax under the provisions of this act, a will disposing of such estate is not offered for probate, or an application for administration made within four months from the time of such decease, the treasurer of state may, at any time thereafter, make application to the proper court, setting forth such fact and praying that an administrator may be appointed, and thereupon said court shall appoint an administrator to administer upon such estate. When the heirs or persons entitled to inherit the property of an estate subject to the tax hereby imposed, desire to avoid the appointment of an administrator as provided in this section, they or one of them shall, before the expiration of four months from the death of the decedent file under oath the inventories and reports and perform all the duties required by this act, of administrators, including the filing of the lien; proceedings for the collection of the tax when no administrator is appointed, shall conform as nearly as may be to the provisions of this act in other cases. A non-resident of this state shall not be appointed as executor, administrator or trustee of any estate that may be subject to the tax imposed by this act, unless such non-resident first file a bond conditioned upon the payment of all tax, interest and costs for which the estate may be liable, such bond to be signed by not less than two resident freeholders or by an approved surety company and in an amount not less than twenty-five per cent (25%) of the total value of the estate, or of the property within this state if the estate is a foreign estate.

SEC. 5. Appraisers—when appointed—term—removal—vacancies. In each county, the court shall annually at the first term of the court therein appoint three competent residents and freeholders of said county, to act as appraisers of all property within its jurisdiction which is charged or sought to be charged with the collateral inheritance tax. Said 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, and the court or judge thereof in vacation, 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 the appointment of the court or by a judge in vacation. No person interested in any manner in the estate to be appraised may serve as an appraiser of such estate.

SEC. 6. Issuance of commission to appraisers. Whenever it appears that an estate or any property or interest therein is or may be subject to the tax imposed by this act, 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 such 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 shall not issue such commission until the determination of such prior estate, except at the request of parties in interest who desire to remove the lien thereon.

SEC. 7. Notice of appraisement—returns filed. It shall be the duty of all appraisers appointed under the provisions of this act, upon receiving a commission as herein provided, to forthwith give notice to the treasurer of state and other persons known to be interested in the property to be appraised, of the time and place at which they will appraise such property, which time shall not be less than ten days from the date of such notice. The notice shall be served in the same manner as is prescribed for the commencement of civil actions, and if not practicable to serve the notice provided for by statute, they shall apply to the court or a judge thereof in vacation for an order as to notice and upon service of such notice and the making of such appraisement, the said notice, return thereon and appraisement shall be filed with the clerk, and a copy of such appraisement shall at once be filed by the clerk with the treasurer of state. When property is located in more than one county, the appraisers of the county in which the estate is being administered may appraise the whole estate, or those of the several counties may serve for the property within their respective counties or other appraisers be appointed as the district court if in session, or judge thereof in vacation may direct.

SEC. 8. Objections—when filed—appraisement approved or set aside—appeal. The treasurer of state or any person interested in the estate or property appraised, may, within twenty (20) days thereafter, file objections to said appraisement and give notice thereof as in beginning civil actions, on the hearing of which as an action in equity either party may produce evidence competent or material to the matters therein involved. If upon such hearing the court finds the amount at which the 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 appraisement; but if it finds that the appraisement was made at a greater or less sum than the value of the property in the ordinary course of trade, or that the same was not fairly or in good faith made, it shall set aside the appraisement, appoint new appraisers and so proceed until a fair and good appraisement of the

property is made at its value in the market in the ordinary course of trade. The treasurer of state or any one interested in the property appraised, may appeal to the supreme court from the order of the district court approving or setting aside any appraisement to which exceptions have been filed. Notice of appeal shall be served within sixty days from the date of the order appealed from, and the appeal shall be perfected in the time now provided for appeals in equitable actions. In case of appeal the appellant, if he is not the treasurer of state, shall give bond to be approved by the clerk of the court, which bond shall provide that the said appellant and sureties shall pay the tax for which the property may be liable with cost of appeal. If upon the hearing of objections to the appraisement, the court finds that the property is not subject to the tax, the court shall upon expiration of time for appeal, when no appeal has been taken, order the clerk to enter upon the lien book a cancellation of any claim or lien for taxes. If at the end of twenty (20) days from the filing of the appraisement with the clerk, no objections are filed, the appraisement shall stand approved.

SEC. 9. Appraisement of transferred property—appraised value to be market value—deduction of debts. Within ninety (90) days after the transfer of any property that may be liable for a tax under the provisions of this act, except as hereinotherwise provided, the clerk of the proper county upon his own motion or upon the application of the treasurer of state, county attorney, or person interested in the property, shall cause the property to be appraised as provided herein. If there be an estate or property subject to said tax wherein the records in the clerk's office do not disclose that there may be a tax due under the provisions of this act, the person or persons interested in the property shall report the matter to the clerk with an application that the property be appraised. The appraised value of the property shall in all cases be its market value in the ordinary course of trade, and in domestic estates the tax shall be calculated thereon after deducting the debts as defined herein; provided, however, that the debt of a domestic estate owing for or secured by property outside of the state, shall not be deducted before estimating the tax, except when the property for which the debt is owing or by which it is secured is subject to the tax imposed by this act, or when the foreign debt exceeds the value of the property securing it or for which it was contracted, then the excess may be deducted provided that satisfactory proof of the value of the foreign property and the amount of such debt is furnished to the treasurer of state.

SEC. 10. Relief from appraisement. All estates subject in whole or in part to the tax imposed by this act shall be appraised for the purpose of computing said tax by the regular collateral inheritance tax appraisers; provided, that estates liable for the payment of the inheritance tax upon specific legacies, annuities, bequests of money or other property the value of which may be determined without appraisement, and estates which consist of money, book accounts, bank deposits, notes, mortgages and bonds, need not be appraised by the collateral inheritance tax appraisers if the administrator, executor or trustee or the persons entitled to or claiming such property are willing to charge themselves with the full face value of such bequests or property, together with the interest, earnings or undivided profits which may be due on said properties, at the time of death of the testator or intestate, as the basis for the assessment of said tax, but in all cases the relief from appraisement for the collateral inheritance tax is dependent upon the consent of the treasurer of state, and the subsequent approval thereof by the court or judge thereof in vacation. In the event that the estate has been duly appraised under the ordinary statutes of inheritance or the property has been sold and such appraisement or selling price is accepted by the treasurer of state as sat-

isfactory for collateral inheritance tax purposes, the court or judge thereof in vacation may, upon proper application, relieve the estate from the appraisement by the collateral inheritance tax appraisers; but in order to obtain such relief, the administrator, executor, trustee or other party interested must file an application for relief with the consent of the treasurer of state thereto in the office of the clerk of the court before said clerk issues a commission to the collateral inheritance tax appraisers. The court or judge thereof in vacation may, upon application of the representatives of the estate or parties interested, relieve the estate of the appraisement for collateral tax purposes if it be shown to said court that the market value of the entire estate will not exceed one thousand dollars; provided, that prior to the application to said court or judge the written consent of the treasurer of state to such relief is procured. In all cases where an estate is relieved from an appraisement for collateral inheritance tax purposes, the order granting relief shall be recorded in the clerk's office, and the fact of such relief and reasons therefor shall be duly noted in the decree or order of final settlement made by the court.

SEC. 11. Deferred estates in real property—how and when appraised. When any person, whose estate over and above the amount of his debts, as defined in this act, exceeds the sum of one thousand dollars, shall bequeath or devise any real property to or for the use of persons exempt from the tax imposed by this act, during life or for a term of years, and the remainder to a collateral heir, said property upon the determination of such estate for life or years, shall be appraised at its then actual market value from which shall be deducted the value of any improvements thereon, or betterments thereto, if any, made by the remainderman during the time of the prior estate, to be ascertained and determined by the appraisers and the tax on the remainder shall be paid by such remainderman as provided in the next succeeding section.

SEC. 12. Life, term and deferred estates in real property—appraisement—tax paid, when. Whenever any real property of a decedent shall be subject to such tax and there be an estate or interest for life or term of years given to a party other than those especially exempt by this act, the clerk shall cause such property to be appraised at the actual market value thereof, as is provided in ordinary cases, and the party entitled to such estate or interest shall within one (1) year from the death of decedent owner pay such tax, and in default thereof the court shall order such interest in said estate, or so much thereof as shall be necessary to pay such tax and interest, to be sold. Upon the determination of any prior estate or interest, when the remainder or deferred estate or interest or any part thereof is subject to such tax and the tax upon such remainder or deferred interest has not been paid, the person or persons entitled to such remainder or deferred interest shall immediately report to the clerk of the proper court the fact of the determination of the prior estate, and upon receipt of such report, or upon information from any source, of the determination of any such prior estate when the remainder interest has not been appraised for the purpose of assessing such tax, the clerk shall forthwith issue a commission to the collateral inheritance tax appraisers, who shall immediately proceed to appraise the property as provided in like cases in the next preceding section, and the tax upon such remainder interest shall be paid by the remainderman within one (1) year next after the determination of the prior estate. If such tax is not paid within said time the court shall then order said property, or so much thereof as may be necessary to pay such tax and interest, to be sold.

SEC. 13. Life, term and deferred estates in personal property—tax paid, when. Whenever any personal property shall be subject to the tax imposed

by this act and there be an estate or interest for life or term of years given to one or more persons and remainder or deferred estate to others, the clerk shall cause the property so devised or conveyed to be appraised as provided herein in ordinary estates and the value of the several estates or interests so devised or conveyed shall be determined as provided in section seventeen (17) of this act, and the tax upon such estates or interests as are liable for the tax imposed by this act shall be paid to the treasurer of state from the property appraised or by the persons entitled to such estate or interest within eighteen (18) months from the death of the testator, grantor, or donor, provided, however, that 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 the next succeeding section.

SEC. 14. Bond to secure payment of tax on deferred estates. When in case of deferred estates or remainder interests in personal property or in the proceeds of any real estate that may be sold during the time of a life, term or prior estate, the persons interested who may desire to defer the payment of the tax until the determination of the prior estate, shall file with the clerk of the proper district court a bond as provided herein in other cases, such bond to be renewed every two years until the tax upon such deferred estate is paid. If at the end of any two year period the bond is not promptly renewed as herein provided and the tax has not been paid, the bond shall be declared forfeited, and the amount thereof be forthwith collected. When the estate of a decedent consists in part of real and in part of personal property, and there be an estate for life or for a term of years to one or more persons and a deferred or remainder estate to others, and such deferred or remainder estate is in whole or in part subject to the tax imposed by this act, if the deferred or remainder estates or interests are so disposed that good and sufficient security for the payment of the tax for which such deferred or remainder estates may be liable can be had because of the lien imposed by this act upon the real property of such estate, then payment of the tax upon such deferred or remainder estates may be postponed until the determination of the prior estate without giving bond as herein required to secure payment of such tax, and the tax shall remain a lien upon such real estate until this tax upon such deferred estate or interest is paid.

SEC. 15. Bonds. All bonds required by this act shall be payable to the treasurer of state and shall be conditioned upon the payment of the tax, interest and costs for which the estate may be liable, and for the faithful performance of all the duties hereby imposed upon and required of the person whose acts are by such bond to be guaranteed, and shall be in an amount equal to twice the amount of the tax interest and costs that may be due, but in no case less than five hundred dollars (\$500.00) and must be secured by not less than two resident freeholders or by a fidelity or surety company authorized by the auditor of state to do business in this state.

SEC. 16. Removal of taxable property from state—penalty. It shall be unlawful for any person to remove from this state any property, or the proceeds thereof, that may be subject to the tax imposed by this act, without paying the said tax to the treasurer of state. Any person violating the provisions of this section shall be guilty of a felony and upon conviction shall be fined an amount equal to twice the amount of tax, interest and costs for which the estate may be liable, but in no case less than two hundred dollars (\$200.00) and imprisoned as the court shall direct, until the fine is paid. Provided, however, that the penalty hereby imposed shall not be enforced, if prior to the removal of such property or the proceeds thereof, the person desiring to effect such removal files with the clerk a bond conditioned upon

the payment of the tax, interest and costs, as is provided in the preceding section hereof.

SEC. 17. Value of annuities, life, term or deferred estates—how determined. The value of any annuity, deferred estate, or interest, or any estate for life or term of years, subject to the collateral inheritance tax, shall be determined for the purpose of computing said tax by the rule of standards of mortality and of value commonly used in actuaries' combined experience tables as now provided by law. The taxable value of annuities, life or term, deferred or future estates, shall be computed at the rate of four (4) per cent per annum of the appraised value of the property in which such estate or interest exists or is founded. Whenever it is desired to remove the lien of the collateral inheritance tax on remainders, reversions, or deferred estates, parties owning the beneficial interest may pay at any time the said tax on the present worth of such interests determined according to the rules herein fixed.

SEC. 18. Taxes due from devisees, grantees, etc.—how paid—suit for collection. It is hereby made the duty of all executors, administrators, trustees, or other persons charged with the management or settlement of any estate subject to the tax provided for in this act, to collect and pay to the treasurer of state 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 treasurer of state shall collect the same. Executors, administrators, trustees, or the state treasurer, shall have power to sell so much of the property of the decedent as will enable them to pay said tax, in the same manner as is now provided by law for the sale of such property for the payment of debts of testators or intestates. The treasurer of state may bring, or cause to be brought in his name of office, suit, for the collection of said tax, interest and costs, against the executor, administrator, or trustee, or against the person entitled to property subject to said tax, or upon any bond given to secure payment thereof, 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. If because of necessary litigation or other unavoidable cause of delay enforced payment of the tax hereby imposed, by suit and execution, would result in loss or be to the detriment of the best interests of the estate, the court may extend the time for the payment of the tax. Such extensions of time shall not be granted except in cases where security is given for payment of the tax, interest and costs.

SEC. 19. Tax deducted from legacy or collected from legatee. Every executor, administrator, referee or trustee having in charge or trust any property of an estate subject to said tax, and which is made payable by him, shall deduct the tax therefrom or shall collect the tax thereon from the legatee or person entitled to said property and pay the same to the treasurer of state, and he shall not deliver any specific legacy or property subject to said tax to any person until he has collected the tax thereon.

SEC. 20. Settlement with executors, etc., void if taxes are not paid. No final settlement of the account of any executor, administrator, or trustee shall be accepted or allowed unless it shall show, and the court shall find, that all taxes imposed by the provisions of this act upon any property or interest therein, that is hereby made payable by such executors, administrators or trustees, and to be settled by said account, shall have been paid, and the receipt of the treasurer of state for such tax shall be the proper voucher for such payment. Any order contravening the provision of this section shall be void. Upon the filing of such receipt showing payment of the tax,

the clerk shall record the same upon the collateral inheritance tax lien book in his office.

SEC. 21. Jurisdiction. The district court in the county in which some part of the property is situated, of 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, and the treasurer of state shall in his name of office, with all the rights and privileges of a party in interest, represent the state in any such proceedings.

SEC. 22. Bequests to executors or trustees subject to tax. Whenever a decedent appoints one or more executors or trustees 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 bequests, devises or residuary legacies exceed the statutory fees as compensation for their services, such excess shall be liable to such tax.

SEC. 23. Legacies charged upon real estate. Whenever any legacies subject to said tax are charged upon or payable out of any real estate, the heir or devisee, before paying the same, shall deduct said tax therefrom and pay it to the executor, administrator, trustee or treasurer of state, and the same shall remain a charge against and be a lien upon said real estate until it is paid; and payment thereof shall be enforced by the executor, administrator, trustee or treasurer of state in his name of office as herein provided.

SEC. 24. Delinquent taxes to draw interest. All taxes imposed by this act shall be payable to the treasurer of state, and except when otherwise provided in this act, shall be paid within eighteen (18) months from the death of the testator or intestate. All taxes not paid within the time prescribed in this act shall draw interest at the rate of eight per centum per annum thereafter until paid. *A. 1913 c. 121*

SEC. 25. Proofs furnished treasurer of state on demand. Before issuing his receipt for the tax, the treasurer of state may demand from administrators, executors, trustees or beneficiaries such information as may be necessary to verify the correctness of the amount of the tax and interest, and when such demand is made they shall send to said treasurer certified copies of wills, deeds, or other papers, or of such parts of their reports as he may demand, and upon the refusal or neglect of said parties to comply with the demand of the treasurer of state, it is the duty of the clerk of the court to comply with such 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 for which the estate may be liable.

SEC. 26. Collateral inheritance tax and lien book. The clerk of the district court in and for each county shall provide and keep a suitable book, substantially bound and suitably ruled, to be known as the collateral inheritance tax and lien book, in which shall be kept a full and accurate record of all proceedings in cases where property is charged or sought to be charged with the payment of a collateral inheritance tax under the laws of this state, to be printed and ruled so as to show upon one page,

- (1) The name, place of residence, and date of death of the decedent.
- (2) Whether the decedent died testate, or intestate, and if testate, the record and page where the will was probated and recorded.
- (3) The name and postoffice address of the executor, administrator, trustee, or grantee, with the date of appointment or transfer.

- (4) The names, postoffice addresses and relationship, if known, of all the heirs, devisees and grantees.
- (5) The appraised valuation of the personal property.
- (6) The amount of inheritance tax due upon said personal property.
- (7) A record of payment with amount and date.
- (8) Date of filing objections and names of objectors.
- (9) Blank for index and reference to all proceedings and for memorandum entries of the court or judge in relation thereto.

Upon the opposite page of such record shall be printed:

- (1) Real estate derived from..... (naming decedent) which is subject to the lien prescribed by the statute for collateral inheritance tax.
- (2) A full and accurate description of such real estate, by forty-acre or fractional tracts, or by lots, or other complete individual description.
- (3) The appraised valuation as reported by the appraisers, with a reference to the record of their report, as to each piece of such real estate.
- (4) The amount of the inheritance tax due upon each such piece.
- (5) A record of payments, with dates and amounts.

SEC. 27. Report by executors, etc.—entry of tax lien. Upon the the appointment and qualification of such executor, administrator and testamentary trustee, the clerk issuing the letters shall at the same time deliver to him a blank form upon which he shall be required to make detailed report of the following facts:

- (1) Name and last residence of decedent.
- (2) Date of death.
- (3) Whether or not he left a will.
- (4) Name and postoffice of executor, administrator or trustee.
- (5) Name and postoffice of surviving wife or husband if any.
- (6) If testate, name and postoffice of each beneficiary under will.
- (7) Relationship of each beneficiary to the testator.
- (8) If intestate, name and postoffice of each heir at law.
- (9) Relationship of each heir at law to decedent.
- (10) Inventory of all the real estate of the decedent giving amount and description of each tract.
- (11) Whether the property passes in possession and enjoyment in fee for life or for a term of years.

Within thirty days after his qualification, each executor, administrator, and testamentary trustee shall make and return to the clerk, under oath, a full and detailed report as indicated in the preceding paragraph, any will to the contrary notwithstanding, and upon his failure to do so, the clerk shall forthwith report his delinquency to the district court if in session, or to a judge of said court if in vacation, for such order as may be necessary to enforce an observance of this section. If it appears from the inventory or report so filed that the real estate or any part of it is subject to an inheritance tax, it shall be the duty of the executor or administrator or of any person interested in the property if there be no administration, to cause the lien of the same to be entered upon the lien book in the office of the clerk of the court in each county where each particular tract of said real estate is situated, and when said real estate or any interest therein, is subject to such tax, no conveyance either before or after the entering of said lien, shall discharge the real estate so conveyed from said lien, no final settlement of the account of any executor, administrator or trustee shall be accepted or allowed unless a strict compliance with the provisions of this section has been had by such person.

Upon the filing of such report, the clerk of the court shall immediately forward a true copy thereof to the treasurer of state.

SEC. 28. Time of appraisal extended—when. Whenever, by reason of the complicated nature of an estate, or by reason of the confused condition of the decedent's affairs, it is impracticable for the executor, administrator, trustee or beneficiary of said estate to file with the clerk of the court a full, complete and itemized inventory of the personal assets belonging to the estate, within the time required by statute for filing inventories of the estates, the court may, upon the application of such representatives or parties in interest, extend the time for making the collateral inheritance appraisalment for a period not to exceed three months beyond the time fixed by this act.

SEC. 29. Heirs at law to report to clerk. Whenever any property passing under the intestate laws may be subject to the tax imposed by this act, the person or persons entitled to such property shall make or cause to be made to the clerk of the courts of the county wherein such property is located, within ninety (90) days next following the death of such intestate, a report in writing embodying therein substantially the information required by the second preceding section of this act. Failure to furnish such report or to probate the will in a testate estate shall not relieve the estate from the lien created hereby or the persons entitled to the property of such decedent from payment of the tax, interest or other penalties imposed by this act.

SEC. 30. Entries made by clerk. The clerk shall enter upon the collateral inheritance tax and lien book, the title of all estates subject to the inheritance tax as shown by the inventories or lists of heirs filed in his office, or as reported to him by the county attorney, treasurer of state, or other person, and shall enter in said book as against each estate or title at the appropriate place, all such information relating to the situation and condition of the estate as he may be able to obtain from the papers filed in his office, or from any other source, as may be necessary to the collection and enforcement of the tax. He shall also immediately index in the book kept in his office for that purpose, all liens entered upon the collateral inheritance tax and lien book. Failure to make such entries as are herein required, shall not operate to relieve the estate from the lien or defeat the collection of the tax.

SEC. 31. Probate record. In all cases entered upon the inheritance tax and lien book, the clerk shall make a complete record in the proper probate record, of all the proceedings, orders, reports, inventory, appraisements and all other matters and proceedings therein.

SEC. 32. Clerk to report estates subject to tax—fee. It shall be the duty of each clerk of the district court to make examination from time to time of all reports filed with him by administrators, executors and trustees, pursuant to law; also to make examination of all foreign wills offered for probate or recorded within his county, as well as of the record of deeds and conveyances in the recorder's office of said county, and if from such examination or from information or knowledge coming to him from any other source, he finds or believes that any property within his county, or within the jurisdiction of the district court of said county has, since July 4, 1896, passed by will or by the intestate laws of this or any other state, or by deed or other method of conveyance, made in anticipation of or intended to take effect, in possession or in enjoyment after the death of the testator, donor or grantor, to any person other than to or for the use of the persons, societies, or organizations exempt from the tax hereby imposed, he shall make report thereof in writing to the treasurer of state, embodying in such report such information as he may be able to obtain as to the name and residence of decedent, date of death, name and address of administrator, executor, or trustee, the description of any

property liable to said tax and the county in which it is located and name and relationship of all beneficiaries or heirs. Any citizen of the state having knowledge of property liable to such tax, against which no proceeding for enforcing collection thereof is pending, may report the same to the clerk and it shall be the duty of such officer to investigate the case, and if he has reason to believe the information to be true, he shall forthwith enter the estate and report the same substantially as above indicated. For reporting such estates or property the clerk shall receive a compensation of one dollar (\$1.00) for each one hundred dollars (\$100.00) or fraction thereof of tax paid, but not to exceed the sum of five dollars (\$5.00) in any one estate, the same to be in addition to the compensation now allowed him by law. Except when this information has first been received from another source, the treasurer of state, when he has issued his receipt for the tax in such estate, shall certify to the auditor of state the amount due the clerk for such service and the auditor of state shall issue his warrant on the treasurer of state in favor of said clerk for the sum due as herein provided.

SEC. 33. Duties of county attorney—compensation—another attorney employed, when. It shall be the duty of the county attorney of each county, when directed by the treasurer of state, to perform such legal services as shall be necessary in the enforcement of said tax, but such attorney shall have no authority to receipt for or receive any of such tax. He shall advise and assist the clerk and appraisers in the discharge of their duties in collateral inheritance tax matters, and see that the notices required by law are properly made and returned. In each estate where the county attorney has performed such legal services, he shall receive a compensation as follows, viz.: on the first one hundred dollars (\$100.00) or fraction thereof of tax paid, ten per cent; on the excess of one hundred dollars (\$100.00) to five hundred dollars (\$500.00) five per cent; on the excess of five hundred dollars (\$500.00) to one thousand dollars (\$1000.00) three per cent; on all sums in excess of one thousand dollars (\$1000.00) one per cent but not to exceed one hundred and fifty dollars (\$150.00) from any one estate. Provided, however, that except in cases of litigation requiring the filing of a petition or answer in court, the fee in any case shall not exceed the sum of fifty dollars (\$50.00). When the treasurer of state has issued his receipt for the tax in an estate, in which the county attorney has been directed to render legal services, and has performed such services, the treasurer of state shall certify the amount due for such services to the auditor of state, who shall issue his warrant on the treasurer of state in favor of the said county attorney for the sum due. If the county attorney is attorney for the executor, administrator or other person interested in the state, the treasurer of state may employ another attorney to represent the state.

SEC. 34. Conflicting claims for fees—how settled. In the event of uncertainty or of conflicting claims as to fees due county attorneys or clerks under this act, the treasurer of state is empowered to determine the amount of fees, to whom payable, and when the same are due, and as far as possible, such determination shall be in accord with fixed rules made by the treasurer of state.

SEC. 35. District court to enforce payment of tax. On the first day of each regular term, the court shall require the clerk to present for its inspection the inheritance tax and lien book hereinbefore provided for, together with all reports of administrators, executors and trustees which have been filed pursuant to this act, since the last preceding term. The county attorney shall also attend and make report to the court concerning the progress of all cases pending for the collection of such taxes, together with any other facts, which in his judgment may aid the court in enforcing the general observance of the

collateral inheritance tax law. If from information obtained from the records or reports, or from any other source, the court has reason to believe that there is property within its jurisdiction liable to the payment of an inheritance tax, against which proceedings for collection are not already pending, it shall enter an order of record, directing the county attorney to institute such proceedings forthwith. Should any estate, or the name of any grantee or grantees be placed upon the book at the suggestion of the county attorney, the treasurer of state, or other person, in which the papers already on file in the clerk's office do not disclose that an inheritance tax is due or payable, the county attorney shall forthwith give to all parties in interest such notice as the court or judge may prescribe, requiring them to appear on a day to be fixed by the said court or judge, and show cause why the property should not be appraised and subjected to said tax. At any such hearing any person may be required to appear and answer as to his knowledge of any such estate or property. If upon any such hearing the court is satisfied that any property of the decedent or any property devised, granted or donated by him, is subject to the tax, the same proceedings shall be had as in other cases, so far as applicable.

SEC. 36. Costs taxed to estate. In all cases where an estate or interest therein so passes as to be liable to taxation under this act, all costs of the proceedings had for the assessment of such tax shall be chargeable to such estate as other costs in probate proceedings and to discharge the lien, all costs, as well as the taxes must be paid. In all other cases the costs are to be paid as ordered by the court. When a decision adverse to the state has been rendered, with an order that the state pay the costs, it shall be the duty of the clerk of the court in which such action was pending to certify the amount of such costs to the treasurer of state, who shall, if said costs be correctly certified, and the case has been finally terminated, and the tax if any due has been paid, present the claim to the executive council to audit, and said claim being allowed by said council, the auditor of state is directed to issue a warrant on the treasurer of state in payment of such costs.

SEC. 37. Delivery of securities and assets to executors, etc.—liability of bank or trust company. No safe deposit company, trust company, bank or other institution, person or persons holding securities or assets of the decedent shall deliver or transfer the same to the executor, administrator or legal representative of said decedent unless the tax for which such securities or assets are liable under this act shall be first paid, or the payment thereof is secured by bond as herein provided. It shall be lawful for and the duty of the treasurer of state personally, or by any person by him duly authorized, to examine such securities or assets at the time of any proposed delivery or transfer. Failure to serve ten days notice of such proposed transfer upon the treasurer of state or to allow such examination on the delivery of such securities or assets to such executor, administrator or legal representative shall render such safe deposit company, trust company, bank or other institution, person or persons liable for the payment of the tax upon such securities or assets as provided in this act.

SEC. 38. Transfer of corporate stock—liability of corporation. If a foreign executor, administrator or trustee shall assign or transfer 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 treasurer of state on or before the transfer thereof; otherwise the corporation permitting its stock to be so transferred shall be liable to pay such tax, interest, and costs, and it is the duty of the treasurer of state to enforce the payment thereof.

SEC. 39. Corporations to report certain stock transfers to treasurer of state. All Iowa corporations organized for pecuniary profit, shall on July 1st of each year, by its proper officers under oath make a full and correct report to the treasurer of state of all transfers of its stocks made during the preceding year by any person who appears on the books of such corporation as the owner of such stock, when such 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, referee, or any person other than the owner or person in whose name the stocks appeared of record on the books of such corporation, prior to the transfer thereof. Such report shall show the name of the owner of such stocks and his place of residence, the name of the person at whose request the stock was transferred, his place of residence and the authority by virtue of which he acted in making such transfer, the name of the person to whom the transfer was made, and the residence of such 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 corporation. If it appears that any such stock so transferred is subject to tax under the provisions of this act, and the tax has not been paid, the treasurer of state shall notify the corporation in writing of its liability for the payment thereof, and shall bring suit against such corporation as in other cases herein provided unless payment of the tax is made within sixty (60) days from the date of such notice.

SEC. 40. Foreign estates—deduction of debts. Whenever any property belonging to a foreign estate, which estate in whole or in part passes to persons not exempt herein from such tax, the said tax shall be assessed upon the market value of said property remaining after the payment of such debts and expenses as are chargeable to the property under the laws of this state. In the event that the executor, administrator or trustee of such foreign estate files with the clerk of the court having ancillary jurisdiction, and with the treasurer of state, duly certified statements exhibiting the true market value of the entire estate of the decedent owner, and the indebtedness for which the said estate has been adjudged liable, which statements shall be duly attested by the judge of the court having original jurisdiction, the beneficiaries of said estate shall then be entitled to have deducted such proportion of the said indebtedness of the decedent from the value of the property as the value of the property within this state bears to the value of the entire estate.

SEC. 41. Property of foreign estates in Iowa not specifically devised. Whenever any property, real or personal, within this state belongs to a foreign estate and said foreign estate passes in part exempt from the tax imposed by this act and in part subject to said tax and there is no specific devise of the property within this state to direct heirs or if it is within the authority or discretion of the foreign executor, administrator or trustee administering the estate to dispose of the property not specifically devised to direct heirs or devisees in the payment of debts 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 foreign estate, shall be subject to the tax imposed by this act, and the tax due thereon shall be assessed as provided in the next preceding section of this act relating to the deduction of the proportionate share of indebtedness. Provided, however, that 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 act such excess shall not be subject to said tax.

SEC. 42. Compromise settlement—how approved. Whenever an estate charged or sought to be charged with the collateral inheritance tax is of such a nature, or is so disposed, that the liability of the estate is doubtful, or the value thereof cannot with reasonable certainty be ascertained under the provisions of law, the treasurer of state may, with the written approval of the attorney general, which approval shall set forth the reasons therefor, compromise with the beneficiaries or representatives of such estates, and compound the tax thereon; but said settlement must be approved by the district court or judge of the proper court, and after such approval the payment of the amount of the taxes so agreed upon shall discharge the lien against the property of the estate.

SEC. 43. Unknown heirs. Whenever the heirs or persons entitled to any estate, or any interest therein, are unknown or their place of residence cannot with reasonable certainty be ascertained, a tax of 5% shall be paid to the treasurer of state upon all such estates or interests, subject to refund as provided herein in other cases; provided, however, that if it be afterwards determined that any estate or interest passes to aliens, there shall be paid within sixty (60) days after such determination and before delivery of such estate or property, an amount equal to the difference between five per centum, the amount paid, and the amount which such person should pay under the provisions of this act.

SEC. 44. Surplus tax, how and when refunded. When within five years after the payment of the tax, a court of competent jurisdiction may determine that property upon which a collateral inheritance tax has been paid is not subject to or liable for the payment of such tax, or that the amount of tax paid was excessive, so much of such tax as has been overpaid to the treasurer of state shall be returned or refunded to the executor or administrator of such estate, or to those entitled thereto, when a certified copy of the record of such court showing the fact of non-liability of such property to the payment of such tax has been filed with the executive council of the state, the executive council shall if the case has been finally determined issue an order to the auditor of state directing him to issue a warrant upon the treasurer of state to refund such tax. Such order of court shall not be given until fifteen days notice of the application therefor shall have been given to the treasurer of state of the time and place of the hearing of such application, which notice shall be served in the same manner as provided for original notices.

SEC. 45. Contingent estates, devises or legacies. 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 at their full, undiminished value when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, 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. 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 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 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 bequest or transfer as upon a vested interest, at the highest rate possible under the terms of this act if no such contingency existed; provided, that in the event such 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 bequest or transfer is liable upon the removal of such contingency, such

excess shall be refunded as is provided in section forty-four (44) of this act in other cases.

SEC. 46. Construction. In the construction of this act, the words "collateral heirs" shall be held to mean all persons who are not specifically exempt from the tax imposed by the provisions hereof. The word "person" shall include a plural as well as singular, and artificial as well as natural persons. This act shall not be construed to confer upon a county attorney authority to represent the state in any case, and he shall represent the treasurer of state only when especially authorized by him to do so. This act shall apply to all estates subject to taxation under the law repealed by this act if the tax for which such estates are liable shall not have been paid prior to the taking effect of this act.

SEC. 47. State treasurer to keep record of estates. The treasurer of state shall record in a book kept in his office for that purpose, all estates reported to him as liable for a tax under the provisions of this act, showing,—

1. The name of the decedent.
2. The place of his residence or county from which such estate was reported.
3. The date of his death.
4. The name of the administrator, executor or trustee.
5. The appraised value of the property, or the value of any taxable pecuniary legacy.
6. The amount of indebtedness that was deducted before estimating the tax.
7. The amount of tax collected.
8. The amount of fees paid for reporting and collecting such tax.
9. The amount of tax, if any refunded.

He shall also keep a separate record of any deferred estate upon which the tax due is not paid within eighteen (18) months from the death of the decedent, showing substantially the same facts as is required in other cases, and also showing,—

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

SEC. 48. Repeal. Chapter four (4), of title seven (7), of the supplement to the code, 1907, and chapter ninety-two (92) of the acts of the thirty-third (33) general assembly, and all other acts or parts of acts in conflict herewith, are hereby repealed.

Approved May 2, A. D. 1911.