

CHAPTER 147
INHERITANCE TAXES

S. F. 555

AN ACT relating to the inheritance tax by reducing the time period for filing and paying the tax, by increasing the individual exemptions allowed for a surviving spouse, son, daughter, father, mother, and other lineal descendants, by increasing the size of the estate under which no tax is owed, providing for payment by the transfer of property, providing for the phase out of the tax on surviving spouses, valuing certain real estate the same as may be valued for federal estate tax purposes as a qualified use under 26 U.S.C. section 2032A and imposing an additional tax if such real estate is disposed of or ceases to be used for certain purposes, and providing a January 1 effective date for some provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 450.4, subsection 1, Code 1981, is amended to read as follows:

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

Sec. 2. Section 450.6, Code 1981, is amended to read as follows:

450.6 ACCRUAL OF TAX--MATURITY--EXTENSION OF TIME. The tax ~~hereby~~ imposed ~~shall be~~ is for the use of the state, shall accrue at the death of the decedent owner, and shall be paid to the department of revenue within ~~twelve~~ nine months after the death of the decedent owner except when otherwise provided in this chapter. When in the opinion of the director of revenue additional time should be granted for payment to avoid hardship, the director may extend the period to a date not exceeding ten years from the date of death of the decedent. In the case of any ~~such~~ extension the tax shall bear six percent interest from the expiration of ~~twelve~~ nine months from the date of the decedent's death.

Upon the approval of the executive council, the tax liability of any beneficiary, heir, surviving joint tenant or other transferee may be paid, in lieu of money, in whole or in part by the transfer of property to the state or a political subdivision of the state to be used for public purposes. Before the tax liability may be paid by transfer of property to a political subdivision, the governing body of the political subdivision shall also approve the transfer. If the property transferred in payment of tax is included in the decedent's gross estate for inheritance tax purposes, its value for the payment of the tax shall be the same as its value for inheritance tax purposes. Property transferred in payment of the tax which is not included in the decedent's gross estate for inheritance tax purposes shall be valued by agreement of the executive council and the taxpayer. The acceptance or rejection of the property in payment of the tax liability and

the agreed value of the property shall be certified by the executive council to the director of revenue. The acceptance of the property transferred shall act as payment and satisfaction of the inheritance tax liability to the extent of the value of the transferred property, but notwithstanding any other provision, the taxpayer shall not be entitled to a refund if the transferred property has a value in excess of the tax liability.

Sec. 3. Section 450.9, Code 1981, is amended to read as follows:

450.9 INDIVIDUAL EXEMPTIONS. In computing the tax on the net estate passing to the surviving spouse, heirs or beneficiaries of the deceased the following ~~credits-or~~ exemptions shall be allowed:

1. Surviving spouse, ~~eighty~~ one hundred twenty thousand dollars.
2. Each son and daughter, including legally adopted sons and daughters, or illegitimate sons and daughters entitled to inherit under the law of this state, ~~thirty~~ fifty thousand dollars.
3. Father or mother, ~~ten~~ fifteen thousand dollars.
4. Any other lineal descendant of the deceased, ~~ten~~ fifteen thousand dollars.

However, for net estates passing from persons dying on or after January 1, 1983 but before January 1, 1984, the exemption provided in subsection 1 is one hundred fifty thousand dollars and for net estates passing from persons dying on or after January 1, 1984, the exemption provided in subsection 1 is one hundred eighty thousand dollars.

Sec. 4. Section 450.10, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. There shall be deducted from the tax computed under subsection 1 on property, interest in property, or income passing to the surviving spouse a credit equal to the following:

- a. From estates of persons dying on or after January 1, 1986 but before January 1, 1987, one-third of the computed tax.
- b. From estates of persons dying on or after January 1, 1987 but before January 1, 1988, two-thirds of the computed tax.
- c. From estates of persons dying on or after January 1, 1988, all of the computed tax.

Sec. 5. Section 450.12, subsection 1, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Said These debts shall not be deducted unless the personal representative certifies that ~~the same~~ they have been paid or allowed in accordance with ~~the provisions--of~~ sections 633.428, 633.431, 633.432, 633.433, 633.434, 633.435, and 633.448, within ~~twelve~~ nine months from the date of death of the decedent, unless otherwise ordered by the court or any claim or the amount thereof is under litigation.

Sec. 6. Section 450.37, Code 1981, is amended to read as follows:

450.37 MARKET VALUE. The appraised value of the property shall in all cases be its market value in the ordinary course of trade, unless an election has been made to value it as provided in sections 12 through 18 of this Act, and in domestic estates the tax shall be calculated ~~thereon~~ on the appraised value after deducting the debts as defined herein in this chapter.

Sec. 7. Section 450.44, Code 1981, is amended to read as follows:

450.44 REMAINDERS--APPRAISEMENT. When any person, whose estate over and above the amount of his that person's debts, as defined in this chapter, exceeds the sum of one ten thousand dollars, shall bequeath ~~or~~, devise or otherwise transfer any 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 ~~a--person--or~~ persons not thus exempt, said this property, upon the determination of such the 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 on it, or--betterments--thereto,--if--any,~~ made by the remainderman person who owns the remainder interest 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~~ the person who owns the remainder interest as provided in section 450.46.

Sec. 8. Section 450.45, Code 1981, is amended to read as follows:

450.45 LIFE AND TERM ESTATES--APPRAISEMENT. Subject to ~~the-provisions-of~~ section 450.39 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 ~~thereof~~, as is provided in ordinary cases, and the party entitled to the estate or interest shall, within ~~twelve~~ nine months from the death of decedent owner, pay the tax, and in default ~~thereof~~ the court shall order the estate or interest, or so much ~~thereof~~ as necessary to pay the tax and interest, to be sold.

Sec. 9. Section 450.46, Code 1981, is amended to read as follows:

450.46 DEFERRED ESTATE--APPRAISEMENT. Upon the determination of any prior estate or interest, when the remainder or deferred estate or interest or any part ~~thereof~~ of it is subject to such tax and the tax upon such the remainder or deferred interest has not been paid, the ~~person--or~~ persons entitled to such the 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 the 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 inheritance tax appraisers, who shall immediately proceed to appraise the property as provided in like cases in section 450.44 and the tax upon such the remainder interest shall be paid by the remainderman person who owns the remainder interest within ~~one year--next~~ nine months after the determination of the prior estate. If such the tax is not paid within said this time the court shall then order said the property, or so much thereof as may be necessary to pay such the tax and interest, to be sold.

Sec. 10. Section 450.47, Code 1981, is amended to read as follows:

450.47 LIFE AND TERM ESTATES IN PERSONAL PROPERTY. Subject to ~~the provisions--of~~ section 450.39, 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 clerk shall cause the property devised or conveyed to be

appraised as provided herein 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 such the estates or interests ~~as-are~~ liable for the tax ~~imposed--by--this--chapter~~ shall be paid to the department of revenue from the property appraised or by the persons entitled to the estate or interest within ~~twelve~~ nine 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 section 450.48.

Sec. 11. Section 450.63, subsection 1, Code 1981, is amended to read as follows:

1. All taxes imposed by this chapter ~~shall--be~~ are payable to the department of revenue and, except when otherwise provided in this chapter, shall be paid within ~~twelve~~ nine months from the death of the testator or intestate. All taxes not paid within the time prescribed in this chapter ~~shall--be~~ are subject to a penalty as provided in subsection 2 and shall draw interest at the rate of eight percent per annum ~~thereafter~~ until paid.

Sec. 12. NEW SECTION. As used in sections 12 through 18 of this Act, unless the context otherwise requires:

1. "Internal Revenue Code of 1954" means the same as defined in section 422.4.

2. "Taxpayer" means a qualified heir liable for the inheritance tax imposed under chapter 450 on qualified real property.

3. "Qualified real property", "qualified use", "cessation of qualified use", and "qualified heir" mean the same as defined in section 2032A of the Internal Revenue Code of 1954.

Sec. 13. NEW SECTION. Notwithstanding section 450.37, the value of qualified real property for the purpose of the tax imposed under chapter 450 may, at the election of the taxpayer, be its value for the use under which it qualifies as prescribed by section 2032A of the Internal Revenue Code of 1954. A taxpayer may make an election under this section only if all of the following conditions are met:

1. An election for federal estate tax purposes was made with regard to the qualified real property under section 2032A of the Internal Revenue Code of 1954.

2. All persons who signed the agreement referred to in section 2032A(d)(2) of the Internal Revenue Code of 1954 make the election under this section and sign an agreement with the department of revenue consenting to the application of section 14 of this Act with respect to the qualified real property.

3. The total decrease in the value of the qualified real property as a result of the election under this section does not exceed the dollar limitation specified in section 2032A(a)(2) of the Internal Revenue Code of 1954.

The election under this section shall be made by the taxpayer in the manner as the director of revenue may prescribe by rule. The value for the qualified use under this section shall be the value as determined and accepted for federal estate tax purposes.

The definitions and special rules specified in section 2032A(e) of the Internal Revenue Code of 1954 shall apply with respect to qualified real property for which an election was made under this section except that rules shall be prescribed by the director of revenue in lieu of the regulations promulgated by the secretary of treasury.

The director shall prescribe regulations setting forth the application of sections 12 through 18 of this Act in the case of an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business within the meaning of section 6166(b)(1) of the Internal Revenue Code of 1954. Such regulations shall conform as nearly as possible with the regulations promulgated by the United States secretary of treasury in respect to such interests.

Sec. 14. NEW SECTION. There is imposed upon the qualified heir an additional inheritance tax if, within fifteen years after the decedent's death and before the death of the qualified heir, the qualified heir disposes of, other than to a member of the family, any interest in qualified real property for which an election under section 13 of this Act was made or ceases to use for the qualified use the qualified real property for which an election under section 13 of this Act was made as prescribed in section 2032A(c) of the Internal Revenue Code of 1954. The additional inheritance tax shall be the amount computed under sections 15 and 16 of this Act and shall be due six months after the date of the disposition or cessation of qualified use referred to in this section. The amount of the additional inheritance tax shall accrue interest at the rate of ten percent per year from nine months after the decedent's death to the due date of the tax. The tax shall be paid to the department of revenue and shall be deposited into the general fund of the state. Taxes not paid within the time prescribed in this section shall draw interest at the rate of ten percent per annum until paid.

Sec. 15. NEW SECTION. If the date of the disposition or cessation of qualified use referred to in section 14 of this Act is more than one hundred twenty months but less than one hundred eighty months after the date of the decedent's death, the amount of the additional inheritance tax as computed under section 16 of this Act shall be reduced, but not below zero, one-sixtieth for each full month the date of the disposition or cessation exceeds one hundred twenty months after the decedent's death. There shall not be an additional inheritance tax if the disposition or cessation occurs one hundred eighty months or more after the decedent's death.

Sec. 16. NEW SECTION. The amount of the additional inheritance tax imposed by section 14 of this Act is the excess of what the tax imposed by chapter 450 would have been had the election to use the qualified use valuation under section 13 of this Act not been made over the tax paid on the real estate based on qualified use valuation. However, if all of the real estate valued under section 13 of this Act is not disposed of or does not cease to be used for the qualified use, the amount of the additional inheritance tax is the amount computed by applying the ratio that the real estate subject to the qualified use valuation which has been disposed of or which the qualified use ceases bears to all the real estate subject to the

qualified use valuation passing to the taxpayer to the excess of the tax which would have been imposed by chapter 450 had the election under section 13 of this Act not been made over the tax paid on the real estate based on qualified use valuation. However, the additional inheritance tax shall not be computed on a value greater than the fair market value of the qualified real estate at the time the disposition or cessation of the qualified use occurs.

Sec. 17. NEW SECTION. A lien is created in favor of the state for the additional inheritance tax which may be imposed by section 14 of this Act on the qualified real property for which an election has been made under section 13 of this Act. The lien created by this section shall continue until the tax has been paid or ten years after the tax is due, whichever date occurs first. However, the lien shall expire fifteen years after the decedent's death if the qualified heir has not disposed of or ceased to use for the qualified use the qualified real property which would impose the tax under section 14 of this Act. The department of revenue may release the lien prior to the payment of the tax due, if any, if adequate security for payment of the tax is given.

Unless the lien has been perfected by recording in the office of the recorder in the county where the estate is probated, a transfer of the qualified real property to a bona fide purchaser for value shall divest the property of the lien. If the lien is perfected by recording, the rights of the state under the lien have priority over all subsequent mortgagees, purchasers or judgment creditors. The lien may be foreclosed by the director of revenue in the same manner as is now prescribed for the foreclosure of real estate mortgages and upon judgment, execution shall be issued to sell as much of the property necessary to satisfy the tax, interest and costs due.

Sec. 18. NEW SECTION. All the provisions of chapter 450 of the Code with respect to the payment, collection and administration of the inheritance tax imposed under that chapter are applicable to the provisions of sections 12 through 18 of this Act to the extent consistent. The director of revenue shall adopt and promulgate all rules necessary for the enforcement and administration of sections 12 through 18 of this Act.

Sec. 19. Sections 1, 3, and 7 of this Act are effective January 1 following the enactment of the Act for estates of persons dying on or after the January 1 effective date of these sections.

Sec. 20. Sections 2, 5, 8, 9, 10, and 11 of this Act are effective as provided by law for estates of persons dying on or after the effective date of these sections.

Sec. 21. Sections 12 through 18 of this Act are effective July 1, 1982 for estates of persons dying on or after the effective date of these sections.

Approved June 20, 1981