

garnishment served upon a garnishee is effective without serving another notice until the earliest of the following:

1. The annual maximum permitted to be garnished under section 642.21 has been withheld.
2. The writ of execution expires.
3. The judgment is satisfied.
4. The garnishee is served with a notice that the garnishment shall cease.

Approved May 9, 1984

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**CHAPTER 1240**  
STATE INHERITANCE TAX  
*S.F. 2323*

**AN ACT** relating to the state inheritance tax by changing the due date of the tax, providing for monthly interest, providing for a period of limitations for assessments and refunds, requiring recording to give a lien preference after a release of the lien is issued, taxing gifts made within three years of death, providing that property transferred to the state or political subdivision as payment of the tax shall have been included in the decedent's gross estate, and making technical corrections.

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

Section 1. Section 450.3, subsection 2, Code 1983, is amended to read as follows:

2. By deed, grant, sale, gift or transfer made in contemplation within three years of the death of the grantor or donor, and any such transfer of property made by any person within three years prior to the death of the grantor or donor shall, unless shown to the contrary, be deemed to have been made in contemplation of death which is not a bona fide sale for an adequate and full consideration in money or money's worth and which is in excess of the annual gift tax exclusion allowable for each donee under section 2503, subsections a and e of the Internal Revenue Code of 1954 as defined in section 422.4.

Sec. 2. Section 450.6, Code 1983, is amended to read as follows:

450.6 ACCRUAL OF TAX — MATURITY — EXTENSION OF TIME. The tax imposed (is) by this chapter accrues at the death of the decedent owner, and shall be paid to the department of revenue within nine months on or before the last day of the ninth month after the death of the decedent owner except when if otherwise provided in this chapter. When If 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 last day of the month in which the death of the decedent occurred. In the case of any an extension the tax shall bear bears interest at the rate in effect under section 421.7 from the expiration of nine months from the date of the last day of the ninth month after the decedent's death. Interest shall be computed on a monthly basis with a fraction of a month counted as a full month.

Upon the approval of the executive council, the tax liability of any a beneficiary, heir, surviving joint tenant or other transferee may be paid, in lieu of money, in whole or in part by the transfer of real property or tangible personal 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~~ The property transferred in payment of tax ~~is shall have been included in the decedent's gross estate for inheritance tax purposes, and 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~~ acts 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 is not be~~ entitled to a refund if the transferred property has a value in excess of the tax liability.

Sec. 3. Section 450.7, subsection 2, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Notice of the lien is not required to be recorded. The rights of the state under the lien have priority over all subsequent mortgages, purchases, or judgment creditors; and a conveyance after the decedent's death of the property subject to a lien does not discharge the property except as otherwise provided in this chapter. However, if additional tax is determined to be owing under this chapter or chapter 451 after the lien has been released under paragraph "a" or "b", the lien does not have priority over subsequent mortgages, purchases, or judgment creditors unless notice of the lien is recorded in the office of the recorder of the county where the estate is probated, or where the property is located if the estate has not been administered. The department of revenue may release the lien by filing in the office of the clerk of the court in the county where the property is located, the decedent owner died, or the estate is pending or was administered, one of the following:

Sec. 4. Section 450.8, Code 1983, is amended to read as follows:

450.8 TRANSFERS IN CONTEMPLATION OF DEATH TRUST. If the decedent makes transfer of, or creates a trust with respect to, any property in contemplation of his death passing under section 450.3, subsection 2, or intended to take effect after his death, (except in the case of a bona fide sale for a fair consideration in money or money's worth), and if the tax in respect ~~thereto~~ to the transfer is not paid when due, the transferee or trustee ~~shall be is~~ personally liable for such the tax, and ~~such the~~ property, to the extent of the decedent's interest ~~therein in the property~~ at the time of his death, shall be is subject to a lien for the payment of such the tax.

Sec. 5. Section 450.45, Code Supplement 1983, is amended to read as follows:

450.45 LIFE AND TERM ESTATES—VALUATION. ~~When~~ If 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 property 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 on or before the last day of the ninth month from the death of the decedent owner, pay the tax, and in default the court shall order the estate or interest, or as much as necessary to pay the tax, penalty, and interest, to be sold.

Sec. 6. Section 450.46, Code Supplement 1983, is amended to read as follows:

450.46 DEFERRED ESTATE—VALUATION. Upon the determination of any a prior estate or interest, when the remainder or deferred estate or interest or any a 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 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~~ a prior estate when the remainder interest has not been valued for the purpose of assessing tax, 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 on or before the last day of the ninth month~~ after the determination of the prior estate. If the tax is not paid within this time the court shall then order the property, or as much as necessary to pay the tax, penalty, and interest, to be sold.

Sec. 7. Section 450.47, Code Supplement 1983, is amended to read as follows:

450.47 LIFE AND TERM ESTATES IN PERSONAL PROPERTY. ~~When If~~ 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 property devised or conveyed shall be valued under section 450.37 as provided in ordinary estates and the value of the 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 valued or by the persons entitled to the estate or interest ~~within nine months from on or before the last day of the ninth month after the death of the testator, grantor, or donor.~~ However, payment of the tax upon ~~any~~ a 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. 8. Section 450.55, Code Supplement 1983, is amended to read as follows:

450.55 MEANS TO COLLECT TAX. ~~Sections~~ The provisions of 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 the tax, penalty, interest, and costs, against the personal representative or against the person entitled to property subject to the tax, or upon any bond given to secure payment of the tax, either jointly or severally, and upon obtaining judgment may cause execution to be issued 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. 9. Section 450.94, subsection 3, Code Supplement 1983, is amended to read as follows:

3. If the amount paid is greater than the correct tax, penalty and interest due, the department shall refund the excess, with interest after sixty days from the date of payment at the rate in effect under section 421.7, under the ~~provisions of~~ rules prescribed by the director. However, the director shall not allow a claim for refund or credit that has not been filed with the department within ~~five~~ three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is the later. A determination by the department of the amount of tax, penalty and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ninety days from the postmark date of the notice of determination of tax, penalty and interest due or refund owing. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty and interest or refund due, and notify the appellant of the decision by certified mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

Sec. 10. Section 450.94, Code Supplement 1983, is amended by adding the following new subsection:

NEW SUBSECTION. The amount of tax imposed under this chapter shall be assessed according to one of the following:

a. Within three years after the return is filed with respect to property reported on the final inheritance tax return.

b. At any time after the tax became due with respect to property not reported on the final inheritance tax return, but not later than three years after the omitted property is reported to the department on an amended return or on the final inheritance tax return if one was not previously filed.

Sec. 11. Section 451.12, Code 1983, is amended to read as follows:

451.12 APPLICABLE STATUTES. All the provisions of chapter 450 with respect to the lien provisions of section 450.7, and the determination, imposition, payment and collection of the tax imposed, under that chapter, including penalty and interest upon delinquent taxes, are applicable to the provisions of this chapter, except as they are in conflict with this chapter. The director of revenue shall adopt and promulgate rules necessary for the enforcement of this chapter.

Sec. 12. This Act, except for section 8, applies to the estates of persons dying on or after its effective date.

Sec. 13. Section 8 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.

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