

SENATE BILL No. 1

January 11, 1989, Introduced by Senators N. SMITH, CROPSEY, FESSLER, CRUCE, EHLERS, CARL, ARTHURHULTZ, GAST, DILLINGHAM and WELBORN and referred to the Committee on Finance.

A bill to amend the title and sections 1, 1a, 3, 4, 5, 6, 9a, 11, 17, 18, and 21 of Act No. 188 of the Public Acts of 1899, entitled

"An act to provide for the taxation of inheritances, transfers of property by will, transfer of property by the intestate laws of this state or transfers of property by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor or donor or intended to take effect in possession or enjoyment at or after such death,"

section 1 as amended by Act No. 351 of the Public Acts of 1982, section 3 as amended by Act No. 474 of the Public Acts of 1980, and section 9a as amended by Act No. 378 of the Public Acts of 1982, being sections 205.201, 205.201a, 205.203, 205.204, 205.205, 205.206, 205.209a, 205.211, 205.217, 205.218, and 205.221 of the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 1a, 3, 4, 5, 6, 9a,
2 11, 17, 18, and 21 of Act No. 188 of the Public Acts of 1899,
3 section 1 as amended by Act No. 351 of the Public Acts of 1982,
4 section 3 as amended by Act No. 474 of the Public Acts of 1980,
5 and section 9a as amended by Act No. 378 of the Public Acts of
6 1982, being sections 205.201, 205.201a, 205.203, 205.204,
7 205.205, 205.206, 205.209a, 205.211, 205.217, 205.218, and
8 205.221 of the Michigan Compiled Laws, are amended to read as
9 follows:

10 TITLE

11 An act to provide for the taxation of inheritances ~~—~~ AND
12 transfers of property OF AN ESTATE OF A DECEDENT. ~~by will,~~
13 ~~transfer of property by the intestate laws of this state or~~
14 ~~transfers of property by deed, grant, bargain, sale or gift made~~
15 ~~in contemplation of the death of the grantor, vendor or donor or~~
16 ~~intended to take effect in possession or enjoyment at or after~~
17 ~~such death.~~

18 Sec. 1. (1) A tax ~~shall be and~~ is ~~hereby~~ imposed upon
19 the transfer of AN ESTATE OR ANY PART OF AN ESTATE OF A RESIDENT
20 OR NONRESIDENT DECEDENT DYING AFTER DECEMBER 31, 1990, IF THE
21 ESTATE IS SUBJECT TO THE FEDERAL ESTATE TAX IMPOSED BY THE INTER-
22 NAL REVENUE CODE. THE TAX IS EQUAL TO THE MAXIMUM TAX CREDIT FOR
23 STATE DEATH TAXES ALLOWABLE TO THE ESTATE OF THE DECEDENT AGAINST
24 THE FEDERAL ESTATE TAX IMPOSED FOR THE PORTION OF THE ESTATE
25 LOCATED IN THIS STATE. FOR PURPOSES OF THIS SECTION, "ESTATE"

1 MEANS THE PROPERTY INCLUDED IN THE GROSS ESTATE AS DEFINED BY THE
2 INTERNAL REVENUE CODE FOR FEDERAL ESTATE TAX PURPOSES.

3 (2) FOR EACH ESTATE SUBJECT TO TAX UNDER THIS SECTION, THE
4 PERSONAL REPRESENTATIVE OR ADMINISTRATOR OF THE ESTATE SHALL FILE
5 WITH THE PROBATE COURT A COPY OF THE FEDERAL ESTATE TAX RETURN.
6 THE PROBATE JUDGE SHALL THEN ISSUE AN ORDER OF DETERMINATION OF
7 INHERITANCE TAX. ~~any property, real or personal, of the value of~~
8 ~~\$100.00 or over, or of any interest therein or income therefrom,~~
9 ~~in trust or otherwise, to persons or corporations, not exempt by~~
10 ~~law in this state from taxation on real or personal property or~~
11 ~~not heretofore or hereafter existing within this state as incor-~~
12 ~~porated foundations or not heretofore existing within this state~~
13 ~~as established nonprofit unincorporated foundations operated~~
14 ~~exclusively for benevolent, charitable, or educational purposes,~~
15 ~~in the following cases:~~

16 ~~(a) When the transfer is by will or by the intestate laws of~~
17 ~~this state from any person dying seized or possessed of the prop-~~
18 ~~erty while a resident of this state.~~

19 ~~(b) When the transfer is by will or intestate law of prop-~~
20 ~~erty within the state, and the decedent was a nonresident of the~~
21 ~~state at the time of his or her death.~~

22 ~~(c) When the transfer is of property made by a resident or~~
23 ~~by nonresident, when the nonresident's property is within this~~
24 ~~state, by deed, grant, bargain, sale, or gift made in contempla-~~
25 ~~tion of the death of the grantor, vendor, or donor or intended to~~
26 ~~take effect, in possession or enjoyment at or after such death.~~

27 ~~Any transfer of a material part of this property in the nature of~~

~~1 a final disposition or distribution made by the decedent within 2
2 years prior to his or her death, except in case of a bona fide
3 sale for a fair consideration in money or money's worth, shall,
4 unless shown to the contrary, be deemed to have been made in con-
5 templation of death within the meaning of this section. The tax
6 shall also be imposed when any such grantee, vendee, or donee
7 becomes beneficially entitled in possession or expectancy to any
8 property or the income of the property by any such transfer,
9 whether made before or after the passage of this act.~~

~~10 (d) Whenever any person or persons, corporation or associa-
11 tion, whether voluntary or organized pursuant to law, shall exer-
12 cise a power of appointment derived from any disposition of prop-
13 erty made either before or after the passage of this act, the
14 appointment when made shall be deemed a transfer taxable under
15 this act in the same manner as though the property to which the
16 appointment relates belonged absolutely to the donee of the power
17 and had been bequeathed or devised to the donee by will; and
18 whenever any person or persons, corporation or association,
19 whether voluntary or organized pursuant to law, possessing such a
20 power of appointment so derived shall omit or fail to exercise
21 the power of appointment within the time provided, in whole or in
22 part, a transfer taxable under this act shall be deemed to take
23 place to the extent of the omission or failure, in the same
24 manner as though the person or persons, corporation or associa-
25 tion thereby becoming entitled to the possession or enjoyment of
26 the property to which the power related had succeeded thereto by~~

~~1 a will of the donee of the power failing to exercise the power,
2 taking effect at the time of the omission or failure.~~

~~3 (2) Notwithstanding subsection (1), a tax shall not be
4 imposed in respect of personal property, except tangible personal
5 property having an actual situs in this state, if + of the fol-
6 lowing apply:~~

~~7 (a) The transferor at the time of the transfer was a resi-
8 dent of a state or territory of the United States, or of any for-
9 eign country, which at the time of the transfer did not impose a
10 transfer tax or death tax of any character in respect of personal
11 property of residents of this state, except tangible personal
12 property having an actual situs in that state or territory or
13 foreign country.~~

~~14 (b) If the laws of the state, territory, or country of resi-
15 dence of the transferor at the time of the transfer contained a
16 reciprocal exemption provision under which nonresidents were
17 exempted from transfer taxes or death taxes of every character in
18 respect of personal property, except tangible personal property
19 having an actual situs therein, provided the state, territory, or
20 country of residence of such nonresidents allowed a similar
21 exemption to residents of the state, territory, or country of
22 residence of the transferor. For the purposes of this section
23 the District of Columbia and possessions of the United States
24 shall be considered territories of the United States. As used in
25 this subsection, "foreign country" and "country" mean both any
26 foreign country and any political subdivision of that country,
27 and either of them of which the transferor was domiciled at the~~

1 ~~time of his or her death. For the purposes of this section,~~
2 ~~"tangible personal property" shall be construed to exclude all~~
3 ~~property commonly classed as intangible personal property, such~~
4 ~~as deposits in banks, mortgages, debts, receivables, shares of~~
5 ~~stock, bonds, notes, credits, evidences of an interest in proper-~~
6 ~~ty, evidences of debt, and like incorporeal personal property.~~

7 ~~(3) Notwithstanding subsection (1), a tax shall not be~~
8 ~~imposed in respect of property passing to a trustee or trustees~~
9 ~~of any trust agreement or trust deed heretofore or hereafter exe-~~
10 ~~cuted by a resident or nonresident decedent by virtue of or under~~
11 ~~the terms and provisions of any contract or contracts of insur-~~
12 ~~ance heretofore or hereafter in force, insuring the life of such~~
13 ~~decedent, and paid or payable at or after the death of the dece-~~
14 ~~dent to the trustee or trustees for the benefit of a beneficiary~~
15 ~~or beneficiaries having any present or future, vested, contin-~~
16 ~~gent, or defeasible interest under such trust deed or trust~~
17 ~~agreement.~~

18 ~~(4) If an unincorporated foundation provided tax exempt~~
19 ~~status by subsection (1) ceases to operate if its funds are~~
20 ~~diverted from the lawful purposes of its organization, or if it~~
21 ~~becomes unable to lawfully serve its purposes, the legislature~~
22 ~~may by law provide for the winding up of its affairs and for the~~
23 ~~conservation and disposition of its property, in such way as may~~
24 ~~best promote and perpetuate the purposes for which the unincor-~~
25 ~~porated foundation was originally organized.~~

26 ~~(5) Every transfer to any corporation, society, institution,~~
27 ~~or person or persons, or association of persons for benevolent,~~

~~1 charitable, religious, or educational purposes, organized,
2 existing, or operating under the laws of or within a state or
3 territory of the United States, other than this state, or of the
4 District of Columbia, also shall be exempt from taxation under
5 this act, if at the date of the transfer which, excepting as to
6 gifts by living persons, shall be deemed to be the date of
7 decedent's death, the laws of the state or territory or of the
8 District of Columbia, under which such corporation, society,
9 institution, person or persons, or association of persons was
10 organized, existing, or operating did not impose a death tax of
11 any character in respect to property transferred to such a corpo-
12 ration, society, institution, person or persons, or association
13 of persons organized, existing, or operating under the laws of or
14 within this state, or if at the date of the transfer the laws of
15 the state or territory or of the District of Columbia contained a
16 reciprocal provision under which such a transfer to such a corpo-
17 ration, society, institution, person or persons, or association
18 of persons organized, existing, or operating under the laws of or
19 within another state or territory or of the District of Columbia
20 were exempted from death taxes of every character, if the other
21 state or territory or of the District of Columbia allowed a simi-
22 lar exemption to such a corporation, society, institution, person
23 or persons, or association of persons organized, existing, or
24 operating under the laws of another state or territory or of the
25 District of Columbia.~~

~~26 The exemption provided in this subsection shall be effective
27 with respect to transfers from decedents whose death occurred on~~

1 ~~or after May 1, 1950. Any tax previously paid on transfers made~~
2 ~~exempt by this subsection shall be refunded.~~

3 ~~(6) Notwithstanding subsection (1), but subject to subsec-~~
4 ~~tion (7), if the decedent dies after December 31, 1982 and if the~~
5 ~~decedent makes or has made a transfer otherwise subject to tax~~
6 ~~under this act to the surviving spouse of the decedent or to the~~
7 ~~surviving spouse of the decedent and another person or persons,~~
8 ~~and if this transfer qualifies for the marital deduction for pur-~~
9 ~~poses of the federal estate tax in the estate of the decedent or~~
10 ~~if this transfer would have qualified for the federal estate tax~~
11 ~~marital deduction if the transfer had been included in the gross~~
12 ~~estate of the decedent for purposes of the federal estate tax,~~
13 ~~the transfer, using values as finally determined for purposes of~~
14 ~~this act, shall be exempt from taxation under this act.~~

15 ~~(7) The exemption provided by subsection (6) shall be~~
16 ~~subject to the following:~~

17 ~~(a) On the death of the first spouse to die, if the executor~~
18 ~~properly elects to treat a transfer or specific portion of a~~
19 ~~transfer as qualified terminable interest property, then on the~~
20 ~~death of the surviving spouse, the transfer of qualified ter-~~
21 ~~minable interest property, using values on the death of the sur-~~
22 ~~viving spouse, shall be considered a transfer of the surviving~~
23 ~~spouse subject to subsection (1). For purposes of determining~~
24 ~~tax rates and exemptions applicable to such transfer, the rela-~~
25 ~~tionship of each successor on the death of the surviving spouse~~
26 ~~shall be to the spouse to which the successor bears the closer~~
27 ~~relationship, and other transfers from the surviving spouse to~~

~~1 such successors shall be taken into account first. If the
2 executor is not required by federal law to file a federal estate
3 tax return, the provisions in this subsection will apply if the
4 executor makes an irrevocable election to have them apply on or
5 before the date on which tax under this act, if any, is due, and
6 files such election on or before that date with the revenue divi-
7 sion of the department of treasury.~~

~~8 (b) If a transfer to the surviving spouse, or to the surviv-
9 ing spouse and other persons, is of an interest in a group of
10 assets not all of which are subject to tax under this act, for
11 purposes of the application of subsection (6), on the death of
12 the first spouse to die, the surviving spouse or the surviving
13 spouse and others persons, shall be considered to have received a
14 pro rata portion of the group of assets in the same proportion
15 that the value of that portion of the group of assets not subject
16 to tax under this act bears to the value of the entire group of
17 assets.~~

~~18 (8) For purposes of subsections (6) and (7):~~

~~19 (a) "Executor" means that term as defined by section 2203 of
20 the internal revenue code.~~

~~21 (b) "Qualified terminable interest property" means a trans-
22 fer or a specific portion of a transfer which the executor elects
23 to treat as qualified terminable interest property, as that term
24 is defined by section 2056(b)(7) of the internal revenue code,
25 for purposes of the federal estate tax or for purposes of subsec-
26 tion (7), to the extent subsections (6) and (7) apply to the
27 transfer or specific portion of the transfer.~~

1 ~~(c) The inheritance tax imposed on the estate of the~~
 2 ~~surviving spouse with respect to qualified terminable interest~~
 3 ~~property shall be paid from qualified terminable interest prop-~~
 4 ~~erty unless the surviving spouse's will specifically provides~~
 5 ~~otherwise.~~

6 Sec. 1a. (1) The terms "death tax" and "death taxes", as
 7 used in ~~the five following~~ subsections (2) TO (6), shall
 8 include inheritance, succession, transfer, and estate taxes and
 9 any taxes levied against the estate of a decedent upon the occa-
 10 sion of his OR HER death.

11 (2) At any time before the expiration of 18 months after the
 12 qualification in any probate court in this state of any
 13 ~~executor~~ PERSONAL REPRESENTATIVE of the will or administrator
 14 of the estate of any ~~non resident~~ NONRESIDENT decedent, ~~such~~
 15 ~~executor~~ THE PERSONAL REPRESENTATIVE or administrator shall file
 16 with ~~such~~ THE court proof that all death taxes, together with
 17 interest or penalties ~~thereon~~ ON THE TAXES, which are due to
 18 the state of domicile of ~~such~~ THE decedent, or to any political
 19 subdivision ~~thereof~~ OF THAT STATE, have been paid or secured,
 20 or that no ~~such~~ taxes, interest, or penalties are due, as the
 21 case may be, unless it appears that letters testamentary or of
 22 administration have been issued on the estate of ~~such~~ THE dece-
 23 dent in the state of his OR HER domicile. ~~, in the 4 following~~
 24 IN subsections (3) TO (6), THE STATE OF DOMICILE SHALL BE called
 25 the domiciliary state.

26 (3) The proof required by subsection (2) may be in the form
 27 of a certificate issued by the official or body charged with the

1 administration of the death tax laws of the domiciliary state.
2 If ~~such~~ THE proof has not been filed within the time ~~limited~~
3 LIMIT in subsection (2), and if within ~~such~~ THAT time it does
4 not appear that letters testamentary or of administration have
5 been issued in the domiciliary state, the register of probate,
6 ~~shall forthwith~~ upon the expiration of ~~such~~ THAT time, SHALL
7 IMMEDIATELY notify by mail the official or body of the domicili-
8 ary state charged with the administration of the death tax laws
9 ~~thereof with respect to such~~ CONCERNING THE estate. ~~and~~
10 ~~shall state in such~~ THE notice ~~so far as is known to him (a)~~
11 SHALL INCLUDE the name, date of death, and last domicile of
12 ~~such~~ THE decedent; ~~and (b)~~ the name and address of each
13 ~~executor~~ PERSONAL REPRESENTATIVE or administrator; ~~and (c)~~ a
14 summary of the values of the real ~~estate~~ PROPERTY, tangible
15 ~~personalty~~ PERSONAL PROPERTY, and intangible ~~personalty~~
16 PROPERTY, wherever situated, belonging to ~~such~~ THE decedent at
17 the time of his OR HER death; ~~and (d)~~ the fact that ~~such~~
18 ~~executor~~ THE PERSONAL REPRESENTATIVE or administrator has not
19 filed ~~theretofore~~ the proof required in subsection (2). ~~Such~~
20 THE register shall attach to ~~such~~ THE notice a plain copy of
21 the will and codicils of ~~such~~ THE decedent ~~and~~ if he OR SHE
22 died testate, or, if he OR SHE died intestate, a list of ~~his~~
23 THE heirs and next of kin ~~so far as is~~ known to ~~such~~ THE
24 register. Within 60 days after the mailing of ~~such~~ THE notice,
25 the official or body charged with the administration of the death
26 tax laws of the domiciliary state may file with ~~such~~ THE
27 probate court in this state a petition for an accounting ~~in~~

1 ~~such~~ OF THE estate, and ~~such~~ THE official or body of the
 2 domiciliary state shall, for the purposes of this section, be a
 3 party interested for the purpose of petitioning ~~such~~ THE pro-
 4 bate court for ~~such~~ AN accounting. If ~~such~~ THE petition ~~be~~
 5 IS filed within ~~said period of~~ 60 days, ~~such~~ THE probate
 6 court shall ~~decree such~~ ORDER AN accounting. ~~, and upon such~~
 7 WHEN THE accounting ~~being~~ IS filed and approved, THE PROBATE
 8 COURT shall ~~decree~~ ORDER either the payment of ~~any such~~ THE
 9 tax found to be due to the domiciliary state or subdivision
 10 ~~thereof~~ OF THE DOMICILIARY STATE or the remission to a fidu-
 11 ciary appointed or to be appointed by the probate court, or other
 12 court charged with the administration of estates of decedents, of
 13 the domiciliary state, of the balance of the intangible person-
 14 alty after the payment of creditors and expenses of administra-
 15 tion in this state.

16 (4) ~~No~~ A final account of ~~an executor~~ A PERSONAL
 17 REPRESENTATIVE or administrator of a ~~non-resident~~ NONRESIDENT
 18 decedent shall NOT be allowed unless ~~either (a) proof~~ 1 OF THE
 19 FOLLOWING OCCURS:

20 (A) PROOF has been filed as required by subsection (2). ~~or~~
 21 ~~or (b) notice~~

22 (B) NOTICE under subsection (3) has been given to the offi-
 23 cial or body charged with the administration of the death tax
 24 laws of the domiciliary state, and ~~such~~ THE official or body
 25 has not petitioned for an accounting ~~under said subsection~~
 26 within 60 days after the mailing of ~~such~~ THE notice. ~~or~~
 27 ~~(c) an~~

1 (C) AN accounting has been ~~had~~ MADE under ~~said~~
2 subsection (3), ~~a decree~~ AN ORDER has been made upon ~~such~~ THE
3 accounting and it appears that the ~~executor~~ PERSONAL
4 REPRESENTATIVE or administrator has paid ~~such~~ THE sums and
5 remitted ~~such~~ securities, if any, as he OR SHE was required to
6 pay or remit by ~~such decree, or (d) it~~ THE ORDER.

7 (D) IT appears that letters testamentary or of administra-
8 tion have been issued by the domiciliary state and that ~~no~~
9 notice has NOT been given under ~~said~~ subsection (3).

10 (5) Subsections (1) to (4) ~~, inclusive,~~ shall apply to the
11 estate of a ~~non-resident~~ NONRESIDENT decedent ~~, only in~~
12 ~~case~~ IF the laws of the domiciliary state contain a provision
13 ~~, of any nature or however expressed, whereby~~ GIVING this
14 state ~~is given~~ reasonable assurance, as finally determined by
15 the auditor general, of the collection of its death taxes, inter-
16 est, and penalties from the estates of decedents dying domiciled
17 in this state, when ~~such~~ estates are administered in whole or
18 in part by a probate court ~~, or other court charged with the~~
19 administration of estates of decedents ~~, in such~~ THE other
20 state.

21 (6) The provisions of subsections (1) to (5) ~~, inclusive,~~
22 shall be liberally construed in order to ensure that the domicil-
23 iary state of any ~~non-resident~~ NONRESIDENT decedent whose
24 estate is administered in this state shall receive any death
25 taxes, together with interest and penalties, ~~thereon,~~ due to it
26 from the estate of ~~such~~ THE decedent.

1 Sec. 3. (1) The tax and the interest on the tax provided
2 for in this act shall become a lien upon the property transferred
3 until paid. ~~, unless payment of the tax has been deferred as~~
4 ~~permitted by this section or section 2d. If a deferral of pay-~~
5 ~~ment is granted under this section or section 2d, the lien pro-~~
6 ~~vided by this section shall attach at the end of the deferral~~
7 ~~period granted by this section or section 2d.~~ The person to whom
8 the property is transferred and the administrator, ~~executor,~~
9 ~~and~~ PERSONAL REPRESENTATIVE, OR trustee of every estate trans-
10 ferred, shall be personally liable for the tax until its
11 payments. ~~, except that the executor or administrator shall not~~
12 ~~be personally liable for the tax upon a reversion or remainder~~
13 ~~consisting of real estate where the election provided for in sec-~~
14 ~~tion 7 or the deferral in this section or section 2d is made.~~
15 The tax shall be paid to the treasurer of the county in which the
16 probate court has jurisdiction. ~~as provided in this act.~~ The
17 COUNTY treasurer shall make out, upon forms prescribed by the
18 revenue commissioner, receipts in duplicate, and immediately send
19 the receipts to the revenue commissioner, and accompany them with
20 the amount received in funds by law receivable at the state
21 treasury. The revenue commissioner shall then charge the trea-
22 surer receiving the tax with the amount ~~thereof~~ OF THE TAX PAID
23 and credit the treasurer with the payment of the tax to THE state
24 treasurer. ~~, and if~~ IF the determination of the tax and
25 receipt are believed to be in accordance with law, THE REVENUE
26 COMMISSIONER SHALL seal the receipts with the seal of the office
27 and countersign the same and return 1 of them to the county

1 treasurer who shall file and preserve it in his or her office,
 2 and immediately send the other receipt to the judge of probate
 3 who shall file and preserve it in that office. ~~whereupon it~~
 4 THE RECEIPT shall be a voucher in settlement of the accounts of
 5 the ~~executor~~ PERSONAL REPRESENTATIVE, administrator, or trustee
 6 of the estate upon which the tax is paid. At the same time, the
 7 revenue commissioner shall send to the county treasurer the state
 8 treasurer's receipt, countersigned as required by law, showing
 9 payment of THE tax. The sealing and countersigning of the
 10 receipts shall not prejudice the right of the state to a review
 11 of the determination fixing the tax. ~~The receipts issued under~~
 12 ~~this section shall show whether the amount paid is a payment of~~
 13 ~~the tax upon any beneficial interest or upon the entire~~
 14 ~~transfer. But an executor~~ A PERSONAL REPRESENTATIVE, adminis-
 15 trator, or trustee of an estate, in settlement of which a tax is
 16 due under this act, shall not be discharged and the estate or
 17 trust closed by ~~a decree~~ AN ORDER of the court, unless there is
 18 produced a receipt signed by the county treasurer and sealed and
 19 countersigned by the revenue commissioner, or a copy ~~thereof~~ OF
 20 THE RECEIPT, certified by the county treasurer. ~~, or unless~~
 21 ~~payment of the tax has been deferred as prescribed by this sec-~~
 22 ~~tion, section 7, or section 2d.~~ When the tax is paid to the
 23 county treasurer, the county treasurer, ~~shall,~~ in addition to
 24 the duplicate receipts required to be issued, ~~upon the form pre-~~
 25 ~~scribed by the revenue commissioner,~~ SHALL give the ~~executor~~
 26 PERSONAL REPRESENTATIVE, administrator, trustee, or other person
 27 paying the tax, a simple receipt for the amount received. ~~All~~

~~1 taxes imposed by this act shall accrue and be due and payable at~~
~~2 the time of transfer, which is the date of death, except that~~
~~3 taxes upon the transfer of any estate, property, or interest~~
~~4 limited, conditioned, dependent, or determinable upon the happen-~~
~~5 ing of a contingency or future event, by reason of which the~~
~~6 clear market value cannot be ascertained at the time of the~~
~~7 transfer, shall accrue and become due and payable when the per-~~
~~8 sons or corporations beneficially entitled shall come into actual~~
~~9 possession or enjoyment.~~

10 ~~(2) The tax and the interest on the tax provided for in this~~
11 ~~act may be deferred for reasonable cause shown by the executor,~~
12 ~~administrator, or trustee of the estate of a decedent who was a~~
13 ~~professional artist at the date of his or her death for not more~~
14 ~~than 10 years without penalty or interest. The executor, admin-~~
15 ~~istrator, or trustee of the estate may make the deferral provided~~
16 ~~by this subsection by filing an affidavit with the judge of pro-~~
17 ~~bate, which shall be made in the time and manner and with the~~
18 ~~content prescribed by the judge of probate. The judge of probate~~
19 ~~shall determine whether there is reasonable cause shown to grant~~
20 ~~a deferral, the length of time for the deferral, and the manner~~
21 ~~of payment of the tax.~~

22 (2) ~~-(3)-~~ A proceeding to enforce a lien against any prop-
23 erty under this act shall be instituted by information, in the
24 name of the people of this state, addressed to the circuit court
25 for the county in which the property is situated. It shall be
26 signed by the attorney general and need not be otherwise
27 verified. A person owning the property or an interest in the

1 property as shown by the record in the office of the register of
 2 deeds ~~—~~ or by the records of the probate court, at the time of
 3 the commencement of the proceedings, shall be made a party to the
 4 action. ~~—and all~~ ALL other persons having a right or interest
 5 in the property ~~—~~ may make themselves parties to the proceeding
 6 ~~—~~ on motion to the court ~~—~~ and notice to complainant, and may
 7 file their intervening or cross-claims, or answers claiming the
 8 benefit of cross-claims, and notices of lis pendens ~~—therein~~ IN
 9 THE ACTION. Intervening or cross-claims shall be made on oath.

10 (3) ~~(4)~~ The information shall show the name of the
 11 deceased; ~~—~~ the date of death; ~~—~~ the place of residence at
 12 the time of death; ~~—~~ the county in which the estate was pro-
 13 bated; ~~—~~ the description of the property transferred, whether
 14 by will or under the intestate laws, and against which the lien
 15 exists; ~~—~~ the name of the person or persons to whom it was
 16 transferred; ~~—~~ the amount of taxes determined by the probate
 17 court upon the transfer; ~~—~~ the date of the determination; and
 18 whether the property is owned by the person or persons to whom it
 19 was transferred by will or under the intestate laws or by a sub-
 20 sequent purchaser, naming that purchaser. The information shall
 21 also show that the taxes determined upon the transfer of the
 22 property have not been paid and the amount of interest due upon
 23 the date of the filing of the information. ~~In those cases in~~
 24 ~~which~~ IF the property upon which the lien exists is owned by the
 25 person or persons to whom it was transferred by will or under the
 26 intestate laws, the petition for relief shall be that the court
 27 determine the amount due; that the defendant pay to the county

1 treasurer of the county — in which the estate was probated, for
2 and in behalf of this state, whatever sum ~~shall appear~~ APPEARS
3 to be due, together with the costs of the proceeding, and that in
4 default of that payment the property upon which the lien exists
5 — may be sold in the manner provided in this act — to satisfy
6 the taxes, interest, and ~~cost~~ COSTS. ~~In those cases in which~~
7 IF the property upon which the lien exists is owned by a subse-
8 quent purchaser, the petition for relief shall be that the court
9 determine the amount due and that the property upon which the
10 lien exists may be sold in the manner provided in this act to
11 satisfy the taxes, interest, and costs of the proceeding. The
12 information may contain other and further allegations and peti-
13 tions considered material and permitted by the rules and practice
14 of the court.

15 (4) ~~(5)~~ A certified copy of the order of determination of
16 the inheritance tax — for which the lien exists, certified by
17 either the judge or register of probate of the court that deter-
18 mined the tax or by the revenue commissioner, may be attached to
19 the information. When attached, the copy shall be considered a
20 part of the information and shall be prima facie evidence of the
21 determination of the inheritance tax and the accruing of the lien
22 against the property. A certificate of the revenue commissioner
23 stating that the inheritance tax, or any part of the tax deter-
24 mined upon the transfer of the property upon which the lien
25 exists, has not been paid — may be attached to the
26 information. When attached, the certificate shall be considered
27 a part of the information and shall be prima facie evidence of

1 the nonpayment of the amount of the tax and interest shown to be
2 unpaid by the certificate.

3 (5) ~~-(6)-~~ If an infant, insane, or otherwise mentally incom-
4 petent person has an interest in the property upon which the lien
5 exists, service of process shall be made upon that person in the
6 same manner and with the same effect as upon persons not under a
7 disability, whether the infant, insane, or otherwise mentally
8 incompetent person is within or without the jurisdiction.

9 (6) ~~-(7)-~~ After the issuing and service of process against
10 the infant, insane, or otherwise incompetent person, a guardian
11 ad litem may be appointed for the infant, insane, or otherwise
12 incompetent person by the court upon motion of the attorney gen-
13 eral, or the guardian ad litem may be appointed by the court upon
14 the request of the infant, and in the case of an insane or other-
15 wise incompetent person, at the request of the person's general
16 guardian.

17 (7) ~~-(8)-If upon~~ AT the hearing of the cause OF ACTION, IF
18 it appears that the inheritance taxes or interest, or both, upon
19 the transfer of the property upon which the lien exists have not
20 been paid, the court shall ~~-decree-~~ ORDER the amount of taxes and
21 interest on the taxes ~~-found-to-be-~~ due, together with costs ~~-to~~
22 ~~be-~~ determined by the court, to be paid by the person or persons
23 owning the property, or any interest in the property, within 3
24 months after the entry of the ~~-decree-~~ ORDER and that in default
25 of payment, ~~-that-~~ the property upon which the lien exists ~~-~~ be
26 sold to satisfy the taxes, interest, and costs. If it appears
27 that the person or persons to whom was transferred the property

1 by will or under the intestate laws have parted with their
2 interest before the institution of the proceedings provided for
3 in this section, and that the property is owned by a subsequent
4 purchaser, the court shall ~~decree~~ ORDER that the property be
5 sold to satisfy the taxes, interest, and costs, unless the owner
6 satisfies the taxes, interest, and costs within 3 months after
7 the entry of the ~~decree~~ ORDER. However, ~~in those cases in~~
8 ~~which~~ IF it appears that 2 or more pieces or parcels of land
9 were transferred by will or under the intestate laws to 1 person,
10 ~~and~~ that ~~that~~ THE person, before the institution of the pro-
11 ceedings provided for in this section, has parted with any or all
12 of the pieces or parcels of land, ~~and~~ that the court can ascer-
13 tain from the order of determination the amount of inheritance
14 tax determined upon the transfer of each piece or parcel, and
15 that the lien against all of the pieces or parcels is being fore-
16 closed in 1 proceeding, the court may ~~decree~~ ORDER the sale of
17 that piece or parcel to satisfy the amount of tax determined upon
18 the transfer of that piece or parcel, together with the interest
19 ~~thereon~~ ON THE TAX and pro rata costs of the proceeding. A
20 piece or parcel of property shall not be sold to satisfy taxes,
21 interest, and costs within 3 months after the entry of the
22 ~~decree~~ ORDER. If the person or persons owning the property or
23 an interest in the property, or the person's heirs, ~~executors~~
24 PERSONAL REPRESENTATIVES, administrators, or a person lawfully
25 claiming from or under him, HER, or them, within 6 months after
26 the time of the sale redeems the entire premises sold ~~—~~ by
27 paying to the register of deeds in whose office the deed is

1 deposited, as provided by subsection ~~(+2)~~ (11), for the benefit
 2 of the purchaser, or the purchaser's ~~executors~~ PERSONAL
 3 REPRESENTATIVES, administrators, or assigns, the sum ~~which~~ THAT
 4 was bid at the time of sale, with interest, at the rate of 6%,
 5 together with the sum of \$1.00 as a fee for the care and custody
 6 of the redemption money ~~—~~ and the fee paid by the purchaser for
 7 recording his or her deed, then the deed shall be void and of no
 8 effect. ~~—, but~~ HOWEVER, if a distinct lot or parcel separately
 9 sold is redeemed leaving a portion of the premises unredeemed,
 10 then the deed shall be inoperative merely to the parcel or par-
 11 cels redeemed and to those portions not redeemed shall remain
 12 valid and of full effect.

13 (8) ~~(9)~~ If it appears to the court after the expiration of
 14 3 months from the date of entry of the ~~decree~~ ORDER from a cer-
 15 tificate of the county treasurer to whom the taxes, interest, and
 16 costs were to be paid, attached to a petition of the attorney
 17 general for an order of sale of the property, that the same have
 18 not been paid, the court shall enter an order directing ~~the cir-~~
 19 ~~cuit court commissioner, or some other~~ A person duly authorized
 20 ~~by the order of the court,~~ to sell the property. The sale
 21 shall be at public ~~vendue~~ AUCTION between the hours of 9 a.m.
 22 and 6 p.m. at the courthouse or at another place as the court
 23 directs, within 60 days after the date of the order and on the
 24 date specified on the order. The court, ~~may,~~ if necessary, by
 25 further order MAY adjourn the sale from time to time. ~~The cir-~~
 26 ~~cuit court commissioner, or other person authorized to make the~~
 27 ~~sale, may, if~~ IF bids are not received equal to the amount of

1 taxes, interest, and costs, THE PERSON AUTHORIZED TO MAKE THE
2 SALE MAY adjourn the sale from time to time, but the sale shall
3 not be adjourned for more than 60 days at any 1 time.

4 (9) ~~(10)~~ Upon receipt of a certified copy of the order of
5 sale, the ~~circuit court commissioner, or other~~ person duly
6 authorized by the order of the court to conduct the sale ~~—~~
7 shall publish the sale in some newspaper printed in the county,
8 or another paper as the court may direct, once in each week ~~—~~
9 for 3 weeks in succession. If the sale is adjourned by order of
10 the court, ~~or by the circuit court commissioner, or other~~ OR
11 THE person duly authorized by the order of the court ~~—~~ to con-
12 duct the sale, the same publication shall be had of the order or
13 notice adjourning the sale as is provided in this section for
14 publishing the order of sale. Proof of publication shall be
15 filed with the court before the sale.

16 (10) ~~(11)~~ The ~~circuit court commissioner, or other~~
17 person authorized to make the sale shall make and file a report
18 of the sale. The report shall be entitled in the court and
19 cause, and shall be certified and filed with the court.

20 (11) ~~(12)~~ Deeds shall ~~thereupon~~ be executed by the
21 ~~circuit court commissioner or other~~ person making the sale,
22 specifying the names of the parties in the action, the date of
23 the determination of the inheritance tax, the name of the
24 deceased, the county in which the estate was probated, with a
25 description of the premises, and the amount for which each parcel
26 of land described was sold. The ~~commissioner, or other~~ person
27 making the sale ~~—~~ shall indorse upon each deed when the deed

1 ~~shall become~~ BECOMES operative, if the premises are not
 2 redeemed according to law. The deed or deeds, as soon as practi-
 3 cable and within 20 days after the sale, shall be deposited with
 4 the register of deeds of the county in which the land described
 5 is situated. ~~and the~~ THE register shall indorse on the deed
 6 the time the deed was received, shall record the deed at length
 7 in a book to be provided for in his or her office for that pur-
 8 pose, and shall index the deed in the regular index of deeds.
 9 The fees for recording the deed shall be paid by the purchaser
 10 and be included among the other costs and expenses. If the
 11 premises or a parcel of the premises ~~shall be~~ IS redeemed, the
 12 register of deeds shall write on the face of the record the word
 13 "Redeemed", stating at what date the entry is made and signing
 14 the entry with his or her official signature. Unless the
 15 premises described in the deed, or a parcel of the premises, is
 16 redeemed within the time limited for redemption ~~as~~ as provided
 17 in this section, the deed ~~shall thereupon~~ as to all parcels not
 18 redeemed ~~shall~~ SHALL become operative and shall vest in the grantee
 19 named in the deed, OR the grantee's heirs or assigns, all the
 20 right, title, and interest ~~therein which~~ THAT the person or
 21 persons received either from the deceased by reason of the trans-
 22 fer to them by will or under the intestate laws, or as subsequent
 23 purchasers.

24 (12) ~~(13)~~ The proceeds of each sale provided for in this
 25 section shall be paid to the treasurer of the county where the
 26 estate was probated, to be applied to the discharge of the tax,
 27 interest, and costs. ~~and if~~ IF there is any surplus, it

1 shall be brought into court for the use of the defendant, or the
 2 person entitled ~~thereto~~ TO THE SURPLUS, subject to the order of
 3 the court. The redemption money paid to the register of deeds
 4 shall be paid to the persons entitled to the money as soon as
 5 practical, and ~~in those cases in which~~ IF the state was the
 6 purchaser, the money shall be paid to the treasurer of the county
 7 where the estate was probated. ~~, and if~~ IF there ~~be~~ IS any
 8 surplus after the tax, interest, and costs are satisfied, that
 9 surplus shall be brought into court for the use of the defendant
 10 or the person entitled to the surplus, subject to the order of
 11 the court.

12 (13) ~~(14)~~ Upon the filing of the information, a fee of
 13 \$2.00 shall be paid to the court ~~, which shall be in full of~~
 14 FOR all register fees and charges in the proceedings. The
 15 ~~circuit court commissioner, or other~~ person authorized by the
 16 court to make the sale ~~, shall be~~ IS entitled to ~~the following~~
 17 ~~fees and no others: For~~ A FEE OF \$1.00 FOR attending and
 18 adjourning a sale; ~~, \$1.00,~~ \$1.50 for attending and making a
 19 sale; ~~, \$1.50, mileage, 1 way,~~ 10 cents per mile FOR MILEAGE, 1
 20 WAY; ~~executing deed or deeds on~~ 25 CENTS FOR EACH DEED NECES-
 21 SARYLY EXECUTED FOR real estate sales; ~~, 25 cents for each deed~~
 22 ~~necessarily executed,~~ \$1.00 FOR making and filing a report of
 23 sale. ~~, \$1.00.~~ The cost of publishing any legal notices
 24 required to be published shall be at the rate of 70 cents per
 25 folio for the first insertion ~~, and~~ 35 cents per folio for each
 26 subsequent insertion. The fees ~~which~~ THAT are provided for in
 27 this act shall be added by the ~~circuit court commissioner, or~~

1 ~~other~~ person duly authorized to make the sale ~~to~~ to the tax,
2 interest, and costs awarded by the court as charges against the
3 land.

4 Sec. 4. (1) The tax imposed by this act accrues ~~on the~~
5 ~~date of death and is due and payable on or before the expiration~~
6 ~~of 9 months from the accruing thereof~~ AND IS DUE AND PAYABLE AT
7 THE TIME REQUIRED FOR THE FILING OF THE FEDERAL ESTATE TAX
8 RETURN. In the case of failure or refusal to pay the tax
9 required by this act, ~~within 9 months from the accruing thereof,~~
10 ~~there shall be added a penalty of \$5.00 or 5% of the tax, which~~
11 ~~ever is greater, if the failure is for not more than 1 month or a~~
12 ~~fraction of 1 month, with an additional 5% for each additional~~
13 ~~month or fraction thereof during which the failure continues, or~~
14 ~~the tax and penalty is not paid, to a maximum of 25%. In addi-~~
15 ~~tion to the penalty, there~~ INTEREST shall be added ~~interest~~ at
16 the rate of 3/4 of 1% per month OR FRACTION OF A MONTH on the
17 amount of the tax from the time the tax was accrued until the
18 date of payment.

19 (2) If by reason of claims made upon the estate, necessary
20 litigation, or other unavoidable cause of delay, the tax cannot
21 be completely determined and paid, a partial or interim payment
22 together with a request for extension shall be made before the
23 due date, ~~in which case~~ AND interest at the rate of 3/4 of 1%
24 per month shall be added to the amount of tax unpaid for the
25 period of extension until the tax is determined, or could be
26 determined until the date of the payment. ~~thereof.~~

1 (3) If the balance of the tax due remains unpaid for more
 2 than 30 days, ~~there shall be added a penalty of \$5.00 or 5% of~~
 3 ~~the tax not paid, whichever is greater, if the failure is for not~~
 4 ~~more than 1 month or a fraction of 1 month, with an additional 5%~~
 5 ~~for each additional month or fraction thereof during which the~~
 6 ~~failure continues, or the tax and penalty is not paid, to a maxi-~~
 7 ~~mum of 25%. In addition to the penalty, there shall be added~~
 8 interest at the rate of 3/4 of 1% per month OR ANY FRACTION OF A
 9 MONTH on the amount of the UNPAID BALANCE OF THE tax from the
 10 time the tax was determined or could have been determined until
 11 the date of payment.

12 ~~(4) Where payment is deferred as provided in section 7,~~
 13 ~~interest shall be charged at the rate of 3/4 of 1% per month from~~
 14 ~~the accrual of the tax until the date of the payment thereof.~~

15 (4) ~~(5)~~ For failure or refusal to file ~~an information~~ A
 16 return or ~~information~~ report required by this act, within the
 17 time specified by this act, there shall be added a penalty of
 18 \$5.00 per day for each day for each separate failure or refusal.
 19 The total penalty for each separate failure or refusal shall not
 20 exceed \$200.00.

21 (5) ~~(6)~~ When a return, report, or remittance is filed
 22 after the time specified by this act and it is shown to the sat-
 23 isfaction of the department that the failure to file was due to
 24 reasonable cause and not to ~~wilful~~ WILLFUL neglect, the penalty
 25 may be waived.

26 Sec. 5. ~~Every executor~~ EXCEPT AS PROVIDED, A PERSONAL
 27 REPRESENTATIVE, administrator, trustee, or other person ~~shall~~

1 ~~have~~ HAS full power to sell or mortgage ~~so~~ AS much of the
 2 property of the decedent as ~~will~~ NECESSARY TO enable him OR HER
 3 to pay ~~such~~ THE tax in the same manner as he ~~might be~~ OR SHE
 4 IS entitled by law to do for the payment of the debts of a dece-
 5 dent or ward. ~~except that in cases where~~ IF the transfer is
 6 to 2 or more persons in common, and 1 or more of them ~~shall~~
 7 have paid his OR HER proportion of ~~such~~ THE tax, ~~such~~
 8 ~~executor~~ THE PERSONAL REPRESENTATIVE, administrator, trustee, or
 9 other person shall sell or mortgage only the interest of ~~such~~
 10 ~~of~~ the persons to whom the property was transferred ~~as~~ THAT
 11 have not paid the tax ~~IN ORDER~~ to pay the tax due upon ~~such~~
 12 THAT share or shares. ~~Any such~~ AN administrator, ~~executor~~
 13 PERSONAL REPRESENTATIVE, trustee, or other person having in
 14 charge or in trust any legacy or property for distribution
 15 subject to ~~such~~ THE tax ~~shall~~ deduct the tax ~~therefrom,~~
 16 FROM THE LEGACY OR PROPERTY and within 30 days ~~thereafter~~ shall
 17 pay ~~over~~ the ~~same~~ LEGACY OR PROPERTY to the county
 18 treasurer. ~~as herein provided.~~ If ~~such~~ THE legacy or prop-
 19 erty ~~be~~ IS not ~~in~~ money, he OR SHE shall collect the tax
 20 ~~thereon~~ as determined by the judge of probate from the person
 21 entitled ~~thereto~~ TO THE LEGACY OR PROPERTY, unless ~~such~~ THE
 22 tax has been paid to the county treasurer. He OR SHE shall not
 23 deliver or be compelled to deliver any specific legacy or prop-
 24 erty subject to tax under this act to any person until the tax
 25 assessed ~~thereon~~ ON IT has been paid to him OR HER or to the
 26 county treasurer. If any ~~such~~ legacy ~~shall be~~ IS charged
 27 upon or payable out of real property and is taxable under this

1 act, the devisee charged with the payment of ~~such~~ THE legacy
 2 shall deduct ~~such~~ THE tax ~~therefrom~~ and pay it to the county
 3 treasurer or the administrator, ~~executor~~ PERSONAL
 4 REPRESENTATIVE, or trustee. ~~And the payment thereof~~ PAYMENT OF
 5 THE TAX shall be enforced by the ~~executor~~ PERSONAL
 6 REPRESENTATIVE, administrator, or trustee, in the same manner as
 7 payment of the legacy might be enforced, or by the attorney gen-
 8 eral or prosecuting attorney by the appropriate legal
 9 proceeding. If ~~such~~ THE legacy ~~shall be~~ IS given in money to
 10 any ~~such~~ person for a limited period, the administrator,
 11 ~~executor~~ PERSONAL REPRESENTATIVE, trustee, or other person
 12 shall retain the tax upon the whole amount. ~~, but if~~ IF THE
 13 LEGACY IS not in money, he OR SHE shall make ~~such~~ AN applica-
 14 tion to the court having jurisdiction of an accounting by him OR
 15 HER, to make an apportionment ~~, if the case require it,~~ of the
 16 sum to be paid by ~~such~~ THE legatee and for ~~such~~ ANY further
 17 order ~~relative thereto as the case may require~~ THAT IS
 18 NECESSARY.

19 Sec. 6. If ~~any~~ A debt ~~shall be~~ IS allowed against the
 20 estate of a decedent after the payment of any legacy or distribu-
 21 tive share ~~thereof,~~ from which ~~any such~~ A tax has been
 22 deducted or upon which it has been paid by the person entitled to
 23 ~~such~~ THE legacy or distributive share, and ~~such~~ THE person is
 24 required to refund the amount of ~~such~~ THE debts or any part
 25 ~~thereof, an equitable proportion of the tax shall~~ OF THE DEBTS,
 26 upon the order of the court, AN EQUITABLE PROPORTION OF THE TAX
 27 SHALL be paid to him OR HER by the ~~executor~~ PERSONAL

1 REPRESENTATIVE, administrator, trustee, or other person, if the
 2 tax has not been paid to the county treasurer. ~~When any~~ IF AN
 3 amount of ~~said~~ THE tax ~~shall have~~ HAS been paid erroneously
 4 into the county treasury by reason of the allowance of debts or
 5 otherwise, ~~it shall be lawful for the auditor general,~~ upon
 6 satisfactory proof ~~by~~ OF the order ~~or certificate~~ of the
 7 proper court ~~of the allowance of such~~ ALLOWING THE debts or of
 8 the reversal, correction, or alteration ~~, in accordance with~~
 9 law, of the order fixing ~~such~~ THE tax, ~~to~~ THE STATE TREA-
 10 SURER MAY draw ~~his~~ A warrant ~~upon the state treasury~~ for
 11 ~~such~~ THE erroneous payment, to be refunded to the ~~executor~~
 12 PERSONAL REPRESENTATIVE, administrator, trustee, person, or per-
 13 sons entitled to receive it, and charge the same to the fund
 14 ~~which~~ THAT receives credit from the payment of taxes under the
 15 provisions of this act. ~~Provided, however, That all~~ ALL
 16 applications for ~~such~~ THE refunding of erroneous tax shall be
 17 made within 6 months ~~from~~ AFTER the allowance of ~~such~~ THE
 18 debts or the reversal, correction, or alteration of ~~said~~ THE
 19 order.

20 Sec. 9a. A safe and collateral deposit company, trust com-
 21 pany, corporation, bank, or other institution, or person having
 22 in possession or custody, at the date of death of a decedent who
 23 was a nonresident of this state, ~~any~~ property ~~,~~ belonging to
 24 the nonresident decedent ~~,~~ or belonging to the nonresident
 25 decedent and 1 or more persons, except intangible personal prop-
 26 erty and ~~except~~ securities, deposits, or other assets contained
 27 in a safe deposit box or compartment, shall not make delivery or

1 surrender possession or custody ~~thereof~~ OF THE PROPERTY to the
2 foreign personal representative of the nonresident decedent ~~—~~
3 or to joint owners, except if the indicated ownership or regis-
4 tered title denotes ownership by right of survivorship ~~—, unless~~
5 ~~furnished with a waiver issued by the attorney general with~~
6 ~~respect thereto, or a receipt,~~ or ON an order of the probate
7 court ~~as provided for in section 18~~ AFTER THE TAX, IF ANY IS
8 DUE, ON THE PROPERTY IS PAID. If any securities, deposits, or
9 other assets contained in a safe deposit box or compartment
10 become subject to the jurisdiction of a probate court of this
11 state through regular probate proceedings, ~~any~~ A safe and col-
12 lateral deposit company, trust company, corporation, bank, or
13 other institution, or person having possession or custody
14 ~~thereof~~ OF THOSE SECURITIES, DEPOSITS, OR OTHER ASSETS may
15 ~~make delivery~~ DELIVER or surrender possession or custody
16 ~~thereof~~ OF THOSE SECURITIES, DEPOSITS, OR OTHER ASSETS to the
17 personal representative appointed by a probate court of this
18 state ~~—~~ without being furnished with ~~such waiver,~~ A receipt
19 ~~—~~ or order, if notice of the time and place of ~~such~~ THE
20 intended delivery or surrender of possession or custody is
21 served, either personally or by registered mail, upon the depart-
22 ment of treasury pursuant to section 9f. The duties of the safe
23 and collateral deposit company, trust company, corporation, bank,
24 or other institution, or person with respect ~~thereto shall be~~
25 TO THOSE SECURITIES, DEPOSITS, OR OTHER ASSETS ARE the same as
26 those pertaining to securities, deposits, or other assets of a
27 resident decedent as provided in section 9.

1 Sec. 11. The judge of probate, upon the application of any
2 interested party, including the ~~auditor general~~ DEPARTMENT OF
3 TREASURY and county treasurers, or upon his OR HER own motion,
4 ~~shall, as often as and whenever occasion may require,~~ appoint
5 a competent person as appraiser to fix the clear market value, at
6 the time of the transfer, ~~thereof~~ of property ~~which shall be~~
7 THAT IS subject to the payment of any tax imposed by this act.
8 THE APPRAISER SHALL BE REIMBURSED FOR NECESSARY TRAVELING AND
9 OTHER EXPENSES AS DETERMINED BY THE JUDGE OF PROBATE. ~~—, a~~
10 ~~description of which property and the names and residences of the~~
11 ~~persons to whom it passes shall be given by the judge of probate~~
12 ~~to such appraiser. If the property, upon the transfer of which~~
13 ~~the tax is imposed, shall be an estate, income or interest for a~~
14 ~~term of years or for life, or determinable upon any future or~~
15 ~~contingent estate, or shall be a remainder or reversion or other~~
16 ~~expectancy, real or personal, the entire property or fund by~~
17 ~~which such estate, income or interest is supported, or of which~~
18 ~~it is a part, shall be appraised immediately after such transfer,~~
19 ~~or as soon thereafter as may be practicable, at the clear market~~
20 ~~value thereof as of that date. Provided, however, That when such~~
21 ~~estate, income or interest shall be of such a nature that its~~
22 ~~clear market value cannot be ascertained at such time, it shall~~
23 ~~be appraised in like manner at the time when such value first~~
24 ~~became ascertainable. The value of every future or contingent or~~
25 ~~limited estate, income, interest or annuity, dependent upon any~~
26 ~~life or lives in being, shall be determined by the rule, method~~
27 ~~or standard of mortality and value employed by the commissioner~~

~~1 of insurance in ascertaining the value of policies of life
2 insurance companies, except that the rate of interest for comput-
3 ing the present value of all future and contingent interests or
4 estates shall be 5 per centum per annum. The commissioner of
5 insurance shall, upon request of the auditor general, prepare
6 such tables of values, expectancies and other matters as may be
7 necessary for use in computing, under the provisions of this act,
8 the value of life estates, annuities, reversions and remainders,
9 which shall be printed and furnished by the auditor general to
10 the several judges of probate upon request. Provided further,
11 That the clear market value of the transfer of a money legacy,
12 presently taxable, shall for the purposes of this act be taken to
13 be the face value of the money at the date of death of decedent.~~

14 Sec. 17. ~~The auditor general shall furnish to each judge
15 of probate a book, which shall be a public record, in which he
16 shall enter a formal order containing the name of every decedent
17 upon whose estate letters of administration or letters testamen-
18 tary or ancillary letters have issued, the date of death, and
19 place of residence at the time of death of such decedent, the
20 names, places of residence and relationship to him of his heirs
21 at law, in case he died intestate or left estate not disposed of
22 by will, the names, places of residence, and relationship to him
23 of the legatees and devisees in the will of the decedent, in case
24 he died testate, the ages of all life tenants and beneficiaries
25 under life estates, the clear market value of his real and per-
26 sonal property, the clear market value of the property, real and
27 personal, passing to each heir, legatee and devisee, and the~~

~~1 clear market value of annuities, life estates, terms of years,
2 and other property of such decedent, or given by him in his will
3 and otherwise, as fixed and determined by the judge of probate,
4 and the amount of tax assessed thereon, and the amount of tax
5 assessed on the share of each heir, legatee and devisee, when
6 from the records of the court or the testimony given there
7 appears to be property in such estate liable to tax under this
8 act: Provided, The description of no real estate need be given
9 except such as is taxable under this act, and a sufficiently def-
10 inite description shall be given to fully identify such taxable
11 real estate and the persons to whom the several parcels are
12 devised. He shall also enter in said book the name, date of
13 death, and place of residence at time of death of every decedent,
14 grantor, vendor or donor who has made a transfer of property in
15 contemplation of death or intended to take effect in possession
16 or enjoyment at or after his death, subject to tax under this
17 act, the name and residence of the grantee, vendee or donee and
18 his relationship to the grantor, vendor or donor, the clear
19 market value as determined by the judge of probate of the prop-
20 erty so transferred by him and the tax determined by the court
21 payable thereon. These entries shall be made from data contained
22 in the papers filed in the probate court and testimony taken in
23 any proceedings relating to the estate of the decedent. The
24 judge of probate shall also enter in such book the amount of the
25 real and personal property of such decedent as shown by the
26 inventory thereof when made and filed in his office. In case the
27 judge of probate shall determine the amount of tax to be paid~~

~~1 upon any legacies or devises or upon the real estate of a~~
~~2 decedent or upon the estate of the decedent as a whole before the~~
~~3 final determination of the tax by him, only such entries need be~~
~~4 made in such book in that particular case as refer to such par-~~
~~5 tial determination, and it shall be distinctly stated in said~~
~~6 book that it is but a partial determination by the judge of pro-~~
~~7 bate of the tax due from the estate. Whenever the determination~~
~~8 of the tax in such estate by the judge of probate is general,~~
~~9 partial or final, the deductions made by the judge of probate~~
~~10 from the full value of the estate shall be particularly speci-~~
~~11 fied, so that the several reasons for the deductions made shall~~
~~12 clearly appear upon the record, such record so required to be~~
~~13 furnished by the auditor general shall be in the following form,~~
~~14 and shall be of such size and so arranged as he shall determine~~
~~15 will best meet the requirements of this act.~~

16 ~~Abstract of Taxable Inheritances. Vol. No.~~

17 ~~Page No.~~

18 ~~State of Michigan.~~

19 ~~The Probate Court for the County of~~

20 ~~At a session of said court held at~~

21 ~~....., in said county the~~

22 ~~..... day of, A.D. 19....~~

23 ~~Present, The Honorable, Probate~~
 24 ~~Judge.~~

25 ~~In the matter of the inheritance tax upon transfers in the~~
 26 ~~estate of, deceased.~~

~~1 In this matter it being represented to me and appearing that~~
~~2 the said deceased was, at the time of his death on the~~
~~3 day of, a resident of~~
~~4 and possessed property the transfer~~
~~5 of which or some interest or estate therein is taxable under the~~
~~6 inheritance tax law (Act 188 of the Public Acts of 1899 and~~
~~7 of 1903); that of~~
~~8 was duly and regularly appointed~~
~~9 of the said estate and,~~
~~10 and that as appears from the inventory on file in this court, the~~
~~11 amount of property belonging to said estate is stated to be as~~
~~12 follows:~~

~~13 Personal property, \$.....; real property,~~
~~14 \$.....~~

~~15 It further appears and I hereby find that the debts of said~~
~~16 deceased owing at the time of his death (exclusive of interest~~
~~17 accruing thereafter) amount to \$.....; that the funeral~~
~~18 expenses of said deceased amount to \$.....; and that~~
~~19 the expenses of administration of the estate of said decedent~~
~~20 (exclusive of all items of disbursement for repairs to buildings~~
~~21 or other property belonging to, or taxes accruing after death,~~
~~22 upon the estate of said deceased, all allowances for the support~~
~~23 of widow and children of said deceased, expenses incurred in con-~~
~~24 testing the will of said deceased, and other items of disburse-~~
~~25 ment for the benefit of the beneficiaries of said estate, not~~
~~26 strictly expenses of administration) amount to the sum of~~

~~1 \$....., the total debts and expenses of
2 administration being \$.....~~

~~3 After due and careful investigation, examination and consid-
4 eration, I find and determine that the clear market value of all
5 of said decedent's personal property and real estate, at the date
6 of his death, was as follows: Personal property,
7 \$....., real property, \$.....,
8 and that after deduction therefrom of the total debts and
9 expenses of administration (debts secured upon realty being
10 deducted from the value of the real estate, and debts unsecured
11 and secured on personalty being deducted from the value of the
12 personalty), there remains subject to taxation under the provi-
13 sions of said act before deducting statutory exemptions, trans-
14 fers of personal property to the amount of \$....., and
15 transfers of real property to the amount of \$....., and that
16 of said transfers certain interests hereinafter set forth in
17 detail in the schedule hereto are not presently taxable by reason
18 of the following contingency, rendering it impossible to deter-
19 mine presently the value of the interests passing and the amount
20 of the tax thereon, namely~~

~~21 And I hereby find and determine that the tax upon the pres-
22 ently taxable transfers in said estate amounts to the sum of
23 \$..... and find that the several names, residences, rela-
24 tionships and ages, where interest consists of life estates or
25 annuities, of the several beneficiaries, together with the char-
26 acter and amount of the several interests or estates passing
27 thereto, the rate of tax to which each is subject, and the~~

1 ~~portion of the tax fixed upon, apportioned to, and required to be~~
 2 ~~borne by each of the several taxable transfers, is as set forth~~
 3 ~~in detail in the following schedule:~~

4 ~~(The schedule shall contain the following headings for the~~
 5 ~~several columns and space for sufficient entries, remarks, etc.)~~

A	B	C	D	E
Name of	Residence	Relationship	Age of Life	Rate of
Heir at Law,			Tenant or	Tax
Legatee or			Annuitant%
Devisee to				
whom estate				
passes				

F	G	H	I	J
Value of	Value of	Value of	Amount of	Value of
Legacy or	Personal	Legacy or	Tax on	Real
Personal	Estate	Personal	Personal	Estate
Estate	Exempt	Estate	Estate	Passing
Passing		Taxable		

K	L	M	N	O
Value of	Value of	Amount of	Value of	Value of
Real	Real	Tax on	Annuities,	Annuities,
Estate	Estate	Real	Life Es-	Life Es-
Exempt	Taxable	Estate	tates, etc.	tates,
			Passing	etc.
				Exempt

P	Q	R
Value of	Amount of	Total
Annuities,	Tax on	Amount
Life Es-	Annuities,	of Tax
tates, etc.,	Life Es-	
Taxable	tates, etc.	

36
 37 ~~Remarks: Including descriptions of real estate taxed and~~
 38 ~~any explanations necessary to a complete understanding of the~~
 39 ~~foregoing entries.~~

40
 41 ~~Judge of Probate.~~

1 The department of ~~revenue~~ TREASURY may prescribe and
 2 furnish to the judge of probate ~~, in lieu of the book and the~~
 3 ~~form prescribed in this section,~~ a form or forms containing
 4 ~~such~~ data ~~as~~ THAT is required for proper determination of the
 5 tax.

6 Sec. 18. Each judge of probate shall ~~, within~~ ENTER AN
 7 ORDER INDICATING THE AMOUNT OF TAX DUE. WITHIN 3 days after ~~he~~
 8 ~~shall have determined the tax and entered~~ the order ~~required in~~
 9 ~~the preceding section,~~ IS ENTERED, THE JUDGE OF PROBATE SHALL
 10 make ~~a duly~~ certified ~~copy of such~~ COPIES OF THE order upon
 11 forms furnished by the department of ~~revenue containing all the~~
 12 ~~data and matter required, + of which shall be~~ TREASURY AND imme-
 13 diately ~~delivered~~ DELIVER 1 to the county treasurer ~~, from~~
 14 ~~which data the said~~ AND 1 TO THE DEPARTMENT OF TREASURY. THE
 15 county treasurer shall obtain the information for making ~~the~~ A
 16 duplicate receipt required by ~~this act, and the other transmit~~
 17 ~~ted to the department of revenue~~ SECTION 3, FROM THE CERTIFIED
 18 COPY. If in any calendar quarter beginning January, April, July,
 19 or October ~~first~~ 1 in each year, there has been no tax deter-
 20 mined, the judge of probate shall make a report to the department
 21 of ~~revenue~~ TREASURY affirmatively showing this fact. ~~The reg-~~
 22 ~~ister of deeds of each county shall, upon blanks prescribed and~~
 23 ~~furnished by the department of revenue, as often as any deed or~~
 24 ~~other conveyance is filed or recorded in his office of any prop-~~
 25 ~~erty which appears to have been made in contemplation of death or~~
 26 ~~intended to take effect in possession or enjoyment after the~~
 27 ~~death of the grantor or vendor, make reports in duplicate~~

~~1 containing a statement of the name and place of residence of such
2 grantor or vendor, the name, relationship and place of residence
3 of the grantee or vendee, and a description and the value of the
4 property transferred and the consideration for the transfer as
5 stated in the instrument filed or recorded, + of which duplicates
6 shall be immediately delivered to the county treasurer, and the
7 other transmitted to the department of revenue. Whenever any
8 non resident shall die leaving property or any interest therein,
9 in this state which has not been duly administered under the laws
10 of this state and it shall be necessary to have the question of
11 the taxation of the transfer thereof determined, such question
12 may be presented and determined upon petition of the department
13 of revenue to be filed by the attorney general in any probate
14 court of this state. In any such case where the department of
15 revenue is satisfied from the proofs submitted or obtained as
16 hereinafter provided, that such transfer is not taxable the
17 department of revenue may thereupon issue a waiver with respect
18 thereto which, upon being countersigned by the attorney general,
19 his deputy, or assistant, shall operate as a determination that
20 such transfer is not taxable. The department of revenue shall
21 charge and collect in advance a fee of \$1.00 for each such waiver
22 and keep a proper record thereof. The said petition shall set
23 forth the name of decedent, residence at time of death, and total
24 amount of property constituting said estate, a description of and
25 the value of all property in Michigan, and any and all such other
26 data as may be necessary to inform the court of the facts in
27 connection with such matter. It shall be the duty of the probate~~

~~1 court with which such petition is filed to fix a date for hearing
2 thereon and to give notice of such hearing in such manner as
3 shall be prescribed. Publication of the notice of such hearing
4 shall not be necessary unless ordered by the court. It shall be
5 the duty of the executor, administrator, trustee or any inter-
6 ested party in said estate to furnish all such facts, data,
7 information, reports and certified copies of proceedings had in
8 connection with said estate in any other court, as shall be
9 required by the attorney general or department of revenue or
10 directed by the probate court. The probate court shall appoint a
11 resident of Michigan to represent the said estate at such hearing
12 and the person so appointed shall perform such duties as shall be
13 required by the court. The person so appointed shall have and
14 possess all of the powers of an executor or administrator for the
15 purposes of this section, but shall not be personally liable for
16 any inheritance tax in said estate and shall not be required to
17 give any bond unless so directed by the court. The said probate
18 court shall at the hearing on said petition or at an adjourned
19 hearing, determine whether the transfer of such property is tax-
20 able and, if found taxable, he shall proceed as in all other
21 cases to fix and determine the amount thereof. If it is found
22 that the transfer of such property is not taxable, an order to
23 that effect shall be entered in the said probate court. A rede-
24 termination of said order may be had and an appeal therefrom may
25 be taken in the same manner provided for in this act. A certi-
26 fied copy of all such orders determining that there is no
27 inheritance tax due and payable may be procured from the probate~~

~~1 court upon the payment of 50 cents. No order shall be entered in
2 any such case until there is filed in said probate court receipts
3 showing full payment of all expenses incurred including compensa-
4 tion due the person appointed to represent said estate, all of
5 which expenses or compensation shall be paid by the executor,
6 administrator or any person interested in said estate. In case
7 it may be necessary to have any such property subjected to regu-
8 lar probate proceedings in this state, or if any such estate
9 shall have been administered in this state, the right to proceed
10 under this section shall be discretionary with the probate
11 court. This section shall not operate to relieve any such
12 person, as is referred to in section 9c of this act from the
13 liability therein expressed until 60 days after the date of entry
14 of the order determining that there is no tax upon the transfers
15 in said estate, or in case a tax is determined, until proper
16 receipts showing payment thereof as required in section 3 of this
17 act have been duly signed. No proceedings shall be required and
18 no inheritance tax shall be fixed and determined or collected,
19 and no waivers or consents shall be required for the transfer or
20 delivery of intangible personal property of a nonresident
21 decedent. The department of revenue may prescribe or approve a
22 form of affidavit which may be relied upon by corporations or
23 their transfer agents in making delivery or transfer of intangi-
24 ble personal property in accordance with this act.~~

25 Sec. 21. As used in this act:

26 (a) "Estate" or "property" means the property or interest in
27 property, ~~of the testator, intestate, grantor, bargainor, or~~

1 ~~vendor, passing or transferred to those not specifically exempted~~
2 ~~from this act, and not as the property or interest in property~~
3 ~~passing or transferred to the individual legatees, devisees,~~
4 ~~heirs, next of kin, grantees, donees, or vendees, and includes~~
5 ~~all property or interest in property whether situated within or~~
6 ~~without this state and including all property represented or evi-~~
7 ~~denced by note, certificate, stock, land, contract, mortgage or~~
8 ~~other kind or character of evidence thereof, and regardless of~~
9 ~~whether that evidence of property is owned, kept or possessed~~
10 ~~within or without this state~~ INCLUDING BOTH REAL AND PERSONAL
11 PROPERTY OR ANYTHING THAT MAY BE THE SUBJECT OF OWNERSHIP, OF THE
12 DECEDENT SUBJECT TO THIS ACT.

13 (b) "Transfer" includes the passing of property or an inter-
14 est in property in possession or enjoyment, present or future, by
15 inheritance, descent, devise, bequest, grant, deed, bargain,
16 sale, or gift. ~~in the manner prescribed in this act.~~

17 (c) "County treasurer" or "prosecuting attorney" means the
18 county treasurer or prosecuting attorney of the county having
19 jurisdiction pursuant to section 10.

20 ~~(d) "Qualified farm real property" means real property~~
21 ~~located in this state which on the date of the decedent's death~~
22 ~~was being devoted primarily to an agricultural use, and which~~
23 ~~meets all of the following conditions:~~

24 ~~(i) The real property is eligible as farmland pursuant to~~
25 ~~Act No. 116 of the Public Acts of 1974, as amended, being sec-~~
26 ~~tions 554.701 to 554.719 of the Michigan Compiled Laws.~~

1 ~~(ii) Fifty percent or more of the adjusted value of the~~
2 ~~estate consists of the adjusted value of real or personal~~
3 ~~property which on the date of the decedent's death, was being~~
4 ~~devoted primarily to an agricultural use, and which was acquired~~
5 ~~from or transferred from the decedent to a qualified heir.~~

6 ~~(iii) Twenty five percent or more of the adjusted value of~~
7 ~~the estate consists of the adjusted value of real property which~~
8 ~~was acquired from or transferred from the decedent to a qualified~~
9 ~~heir and which meets the requirements of subparagraph (iv).~~

10 ~~(iv) During the 8 year period ending on the date of the~~
11 ~~decedent's death there have been periods aggregating 5 years or~~
12 ~~more during which the real property was owned by the decedent or~~
13 ~~a qualified heir in the operation of the farm and there was mate-~~
14 ~~rial participation by the decedent or a qualified heir in the~~
15 ~~operation of the farm.~~

16 ~~(v) The real property is designated in the agreement~~
17 ~~referred to in section 2d.~~

18 ~~(e) "Adjusted value" as used in subdivision (d) means:~~

19 ~~(i) In the case of the estate, the clear market value of the~~
20 ~~estate for purposes of this act, reduced by any proper deductions~~
21 ~~consisting of unpaid mortgages, debts, or liens on the property.~~

22 ~~(ii) In the case of any real or personal property, the clear~~
23 ~~market value of that property for purposes of this act, reduced~~
24 ~~by any proper deductions consisting of unpaid mortgages, debts,~~
25 ~~or liens on the property.~~

26 ~~(f) "Agricultural use" means that term as used in Act~~
27 ~~No. 116 of the Public Acts of 1974, as amended.~~

1 ~~(g) "Qualified heir" means an individual entitled to any~~
2 ~~beneficial interest in property who is the grandfather, grand~~
3 ~~mother, father, mother, husband, wife, child, brother, sister,~~
4 ~~wife or widow of a son, husband or widower of a daughter, of the~~
5 ~~decedent grantor, donor or vendor, or to or for the use of any~~
6 ~~person to whom the decedent grantor, donor or vendor stood in the~~
7 ~~mutually acknowledged relation of a parent, or to or for the use~~
8 ~~of any lineal descendant of the decedent grantor, donor or~~
9 ~~vendor, or farm business partner, or to or for the use of any~~
10 ~~person to whom the decedent grantor, donor or vendor stood in the~~
11 ~~mutually acknowledged relation of a farm business partner. For~~
12 ~~purposes of this subdivision, a legally adopted child of the~~
13 ~~decedent grantor, donor or vendor shall be treated as a child by~~
14 ~~blood.~~

15 ~~(h) "Soil conservation district agency" means the agency of~~
16 ~~the district where the real property is located created pursuant~~
17 ~~to Act No. 297 of the Public Acts of 1937, as amended, being sec-~~
18 ~~tions 282.1 to 282.16 of the Michigan Compiled Laws.~~

19 ~~(i) "State land use agency" means the land use agency within~~
20 ~~the department of natural resources.~~

21 ~~(j) "Material participation" shall be determined in the same~~
22 ~~manner as used in section 1402(a) (1) of the internal revenue~~
23 ~~code.~~

24 Section 2. Sections 2, 2a, 2c, 2d, 7, 8, 12, and 13 of Act
25 No. 188 of the Public Acts of 1899, being sections 205.202,
26 205.202a, 205.202c, 205.202d, 205.207, 205.208, 205.212, and
27 205.213 of the Michigan Compiled Laws, are repealed.

1 Section 3. This amendatory act shall take effect January 1,
2 1991.