

H. F. No. 422.

CHAPTER 254.

Election con-
test. \$138 to
C. S. Schur-
man.

An act to appropriate money to reimburse Charles S. Schurman for his expenses incurred in the contest of his election as a member of Legislature of the State of Minnesota for the year one thousand nine hundred and one (1901).

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That the sum of one hundred and thirty-eight dollars (\$138) is hereby appropriated out of any money in the state treasury not otherwise appropriated to be paid to Charles S. Schurman, a member of the present House of Representatives of the State of Minnesota, to reimburse him for his expenses incurred in the contest for his seat in said House, instituted against him by one Samuel Dearing. That a warrant payable to said Charles S. Schurman, or his order, for said sum be drawn by the proper officer of the State of Minnesota, and delivered to him or his order for payment.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved April 11, 1901.

H. F. No. 423.

CHAPTER 255.

Tax on
gifts, inheri-
tances, etc.

An act to impose a tax on gifts, inheritances, devises, bequests and legacies in certain cases.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. A tax shall be and is hereby imposed upon the transfer of any property, real, personal or mixed, tangible or intangible, over which this state has jurisdiction; or of any interest therein, or income therefrom in trust or otherwise, when the value of such property, interest or income exceeds five thousand dollars (\$5,000), in the following cases:

First: When the transfer is by will, or by the intestate laws of this state from any person dying, deceased or possessed of the property while a resident of this state.

Second: When the transfer is by will, or intestate law of property within the state and the decedent was a non-resident of the state at the time of his death.

Third: When the transfer is of property made by a resident or by a non-resident when such non-resident's

property is within the state, by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, vendor, or donor, or intending to take effect in possession or enjoyment at or after such death.

Such tax is also imposed when any person or corporation becomes beneficially entitled in possession or expectancy to any property or the income thereof by any such transfer, whether made before or after the passage of this act.

Such tax shall be at the rate of five per cent of the clear market value of such property, interest or income, except as otherwise provided in the next section; *provided*, that any estate, property, interest or income, so transferred that shall be valued at five thousand dollars (\$5,000), or less, shall be exempt from and not subject to the tax hereby imposed.

Five per cent
values less
than \$5,000
exempt.

SEC. 2. When such property interest or income, or any beneficial interest therein passes by any such transfer to the use of a father, mother, husband, wife, child, brother, sister, wife or widow of a son, or the husband of a daughter, or any child adopted as such, in conformity with the laws of this state, of the decedent, grantor, donor, or vendor, or to any person to whom such decedent, grantor, donor, or vendor, for not less than ten (10) years prior to such transfer, stood in the mutually acknowledged relation of parent, or to any lineal descendant of such decedent, grantor, donor or vendor, born in lawful wedlock, then such tax shall be at the rate of one per cent upon the clear market value of the property, interest or income so transferred, in excess of said sum of five thousand dollars (\$5,000).

One per cent.

SEC. 3. Every such tax shall be a lien upon the property so transferred, until paid, and the person to whom the property is transferred, and the administrators, executors, and trustees of every estate so transferred shall be personally liable for such tax until its payment.

Tax a lien.

The tax shall be paid to the treasurer of the county of the probate court having jurisdiction, as herein provided, and such treasurer shall give every executor, administrator or trustee paying such tax, duplicate receipts therefor: one of which shall be immediately sent to the state auditor, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and to seal said receipt with the seal of his office and countersign the same, and return it to the executor, administrator or trustee, whereupon it shall be a proper voucher in the settlement of his accounts, and no executor, administra-

Duplicate
receipts.

tor or trustee shall be entitled to a final accounting of an estate in the settlement of which a tax may become due under the provisions of this act, unless he shall produce a receipt, so sealed and countersigned by the state auditor or a certified copy of the same, or unless a bond shall have been filed, as provided for by section seven of this act.

Tax when
due.

All taxes imposed by this act shall be due and payable at the time of the transfer; *provided, however*, that taxes upon the transfer of any estate, property, interest or income limited, conditioned, dependent, or determinable upon the happening of any contingency or future event, by reason of which the fair market value thereof cannot be ascertained at the time of the transfer, as herein provided, shall accrue and become due and payable when the person or corporation beneficially entitled thereto shall come into the actual possession or enjoyment thereof.

Discount.

SEC. 4. If such tax is paid within six (6) months from the accruing thereof, a discount of five (5) per centum shall be allowed and deducted therefrom.

Interest
charged.

If such tax is not paid within eighteen (18) months from the accruing thereof, interest shall be charged and collected thereon at the rate of seven per centum per annum from the time the tax is due, unless by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, such tax cannot be determined and paid as herein provided; in such case interest at the rate of six (6) per centum per annum shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which ten (10) per centum shall be charged.

In all cases when a bond shall be given under the provisions of section seven of this act, interest shall be charged at the rate of six (6) per centum from the accrual of the tax until the date of the payment.

Power
to sell.

SEC. 5. Every executor, administrator, or trustee shall have full power to sell so much of the property of the decedent as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of the testator or intestate.

Any such administrator, executor or trustee, having in charge or in trust any legacy or property for distribution, subject to such tax therefrom, and within thirty (30) days therefrom, shall pay over the same to the county treasurer as herein provided. If such legacy or property be not in money, he shall collect the tax thereon upon the appraised value thereof from the person

entitled thereto. He shall not deliver, or be compelled to deliver any specific legacy or property subject to tax under this act, to any person until he shall have collected the tax thereon.

If any such legacy shall be charged upon or payable out of the property, the heir or devisee shall deduct such tax therefrom and pay it to the administrator, executor, or trustee, and the tax shall remain a lien or charge on such property until paid, and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that payment of the legacy might be enforced, or by the county attorney under section fourteen of this act. If any legacy shall be given in money to any such person for a limited period, the administrator, executor, or trustee shall retain the tax upon the whole amount, but if it be not in money, he shall make application to the court having jurisdiction of an accounting by him to make an apportionment, if the case requires of the sum to be paid into his hands by such legatee, and for such further order relative thereto as the case may require.

SEC. 6. If any debts shall be proven against the estate of the decedent after the payment of any legacy or distributive share thereof from which any such tax has been deducted, or upon which it has been paid by the person entitled to such legacy, or distributive share, and such person or persons are required to refund the amount of such tax or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the county treasurer, or by such treasurer or state treasurer if such tax has been paid to him. When any amount of said shall have been paid erroneously into the state treasury, it shall be lawful for the auditor of this state, upon satisfactory proofs presented to him of the facts to require the amount of such erroneous or illegal payment to be refunded to the executor, administrator, trustee, person or corporation who have paid any such tax in error, from the treasury; or the said auditor may, by order, direct and allow the treasurer of any county to refund the amount of any illegal or erroneous payment of such tax out of the funds in his hands or custody, to the credit of such taxes and credit him with the same in his quarterly account, rendered to the auditor of state as provided by this act: *provided, however*, that all applications for such refunding of erroneous taxes shall be made within three (3) years from the payment thereof.

Erroneously paid.

Application for refunding within 3 years.

SEC. 7. Any person or corporation beneficially interested in any property chargeable with a tax under this act, and executors, administrators and trustees thereof, as herein provided not required to pay such tax until the person or persons beneficially interested therein shall come into the actual possession or enjoyment thereof, shall give a bond to the state in a penalty of three times the amount of any such tax, with such sureties as the probate court of the proper county may approve, conditioned for the payment of such tax, or interest thereon at such time or period as the person or persons beneficially interested therein may come into the actual possession or enjoyment of such property, which bond shall be filed in the office of the probate court.

Such bond must be executed and filed and a full return of such property upon oath made to the probate court within one year from the date of transfer thereof as herein provided, and such bond must be renewed every five years.

SEC. 8. If a testator bequeaths or devises property to one or more executors or trustees in lieu of their commission or allowance, or makes them his legatees to an amount exceeding the commission or allowance prescribed by law for an executor or trustee, the excess in value so bequeathed or devised above the amount of commissions or allowances prescribed by law in similar cases, shall be taxable under this act.

SEC. 9. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state standing in the name of the decedent, or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county on the transfer thereof.

No safe deposit company, bank or other institution, person or persons holding security or assets of a decedent shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, unless notice of the time and place of such intended transfer be served upon the county treasurer at least five (5) days prior to the said transfer. And it shall be lawful for the said county treasurer personally or by representative, to examine said securities at the time of such delivery or transfer. Failure to serve such notice or allow such examination shall render said safe deposit company, trust company, bank, or other institution, person or persons, liable to the payment of the tax due upon said security or assets, pursuant to the provisions of this act.

Bonds in treble amount of tax.

Bequest in lieu of commission.

Foreign executor, etc.

Notice of transfer served on county treasurer.

SEC. 10. The probate court of every county of the state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent whose property is chargeable with any tax under this act, or to appoint a trustee of such estate, or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of this act, and to do any act in relation thereto authorized by law to be done by a probate court in other matters, or proceedings coming within its jurisdiction, and if two or more probate courts shall be entitled to exercise such jurisdiction, the probate court first acquiring jurisdiction thereunder shall retain the same to the exclusion of every other probate court.

Probate court jurisdiction to determine all questions.

Every petition for ancillary letters, testamentary or ancillary letters of administration made in pursuance of the provisions of the probate code of this state in relation thereto, shall set forth the name of the county treasurer as a person to be cited upon the hearing of said petition and a true and correct statement of all the decedent's property in this state and the value thereof, and upon the presentation thereof, the probate court shall issue a citation directed to such county treasurer and upon the return of the citation the probate court shall determine the amount of the tax which may be or become due under the provisions of this act, and his decree awarding the letters may contain any provision for the payment of such tax or the giving of security therefor, which might be made by such probate court, if the county treasurer were a creditor of decedent.

Petition to cite county treasurer

SEC. 11. The probate court, upon the application of any interested party, including county treasurers, or upon his own motion, shall, as often as, and when occasion requires, appoint two competent persons as appraisers to fix the fair market value at the time of the transfer thereof, of property of persons whose estates shall be subject to the payment of any tax imposed by this act.

Appraisers to be appointed.

If the property upon the transfer of which a tax is imposed shall be an estate, income, or interest for a term of years, or for a life, or determinable upon any future or contingent estate, or shall be a remainder or reversion or other expectancy, the entire property or funds by which such estate, income or interest is supported or of which it is a part, shall be appraised immediately after such transfer, or as soon thereafter as may be practicable at the fair and clear market value thereof at that time.

Future or contingent estate.

Provided, however, that when such estate, income, or interest shall be of such a nature that its fair and clear

market value cannot be ascertained at such time, it shall be appraised in like manner at the time when such value first becomes ascertainable.

The value of every future, or contingent or limited estate, income, interest or annuity dependent upon any life or lives, in being, shall be determined by the rule, method and standard of mortality and value, employed by the insurance commissioner of this state in ascertaining the value of policies of life insurance for the determination of liabilities of life insurance companies, except that the rate of interest for computing the present value of all future and contingent interests or estates, shall be five (5) per centum per annum.

SEC. 12. Every such appraiser shall forthwith give notice by mail to all persons known to have a claim or interest in the property to be appraised, including the county treasurer and to such persons as the probate court may, by order, direct, of the time and place when they will appraise such property.

They shall at such time and place appraise the same at its fair market value as herein prescribed, and for that purpose the said appraisers are authorized to issue subpoenas and to compel the attendance of witnesses before them and to take evidence of such witnesses under oath, concerning such property and the value thereof, and they shall make report thereof and of such value in writing to the said probate court, together with the depositions of the witnesses examined, and such other facts in relation thereto and to the said matter as said probate court may order or require. Every appraiser shall be paid on the certificate of the probate court at the rate of three dollars per day for each day actually and necessarily employed in such appraisal, and their actual and necessary traveling expenses, and the fees paid such witnesses, which fees shall be the same as those now paid to witnesses subpoenaed to attend in courts of record, by the county treasurer out of any funds he may have in his hands on account of any tax imposed under the provisions of this act.

SEC. 13. The report of the appraisers shall be filed in the office of the probate court, and from such report and other proof relating to any such estate before the probate court, the court shall forthwith, as of course, determine the cash value of all such estates and the amount of tax to which the same are liable without appointing any appraisers.

The insurance commissioner shall, on the application of any probate court, determine the value of any such

Appraisers
to give no-
tice to per-
sons inter-
ested

Calling
witnesses.

future or contingent estates, income, or interest, limited, contingent, dependent or determinable upon the life of persons in being, upon the facts contained in any report of such appraisers, and certify the same to the probate court, and his certificate shall be conclusive evidence that the method of computation adopted therein is correct.

Insurance
commission-
er to deter-
mine value
of future
or contin-
gent estates.

Any person dissatisfied with the appraisement or assessment and determination of tax, may appeal therefrom to the probate court within sixty (60) days from the fixing, assessing and determination of tax, as herein provided, upon filing in the office of the probate court the written notice of appeal, which shall state the ground upon which the appeal is taken.

Appeals.

The probate court shall immediately give notice upon the determination by it as to the value of any estate which is taxable under this act, and of the tax to which it is liable to all parties known to be interested therein.

SEC. 14. If the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons liable therefor to pay the same, he shall notify the county attorney of the county in writing, of such failure or neglect, and such county attorney, if he have probable cause to believe that such tax is due and unpaid, shall apply to the probate court for a citation citing the persons liable to pay such tax to appear before the court on the day specified, not more than three (3) months from the date of such citation and show cause why the tax should not be paid. The judge of the probate court, upon such applications and whenever it shall appear to him that any such tax accruing under this act has not been paid as required by law, shall issue such citation, and the service of such citation and the time, manner and proof thereof, and the hearing and determination thereon shall conform as near as may be to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this act in said probate court, the person or corporation from whom the same is due is hereby made liable to the county of the probate court having jurisdiction over the estate or property, for the amount of such tax, and it shall be the duty of the county attorney of said county to sue for and enforce the collection of such tax, and it is made the duty of said county attorney to appear for and act on behalf of any county treasurer who shall be cited to appear before any probate court under the provisions of this act.

Tax due and
unpaid.

Citation
to issue.

State auditor
to furnish
record books,
etc.

SEC. 15. The auditor of the state shall furnish to each probate court a book which shall be a public record, and in which shall be entered by the judge of said court, the name of every decedent upon whose estate an application has been made for the issue of letters of administration, or letters testamentary or ancillary letters, the date and place of death of such decedent, the estimated value of the property of such decedent, names and places of residence and relationship to decedent of the heirs at law of such decedent; the names and places of residence of the legatees and devisees in any will of any such decedent, the amount of each legacy, and the estimated value of any property devised therein, and to whom devised.

These entries shall be made from the data contained in the papers filed on any such application, or in any proceeding relating to the estate of the decedent.

The judge of probate shall also enter in such book the amount of the property of any such decedent, as shown by the inventory thereof when made by any appraisers appointed by him under this act, and the value of annuities, life estates, terms of years and other property of any such decedent, or given by such decedent in decedent's will or otherwise, as fixed by the probate court, and the tax assessed thereon, and the amounts of any receipts for payment of any tax upon the estate of such decedent under this act, filed with him.

The auditor of the state shall also furnish to each probate court forms for the reports to be made by such judge of probate, which shall correspond with the entries to be made in such book.

Judge of
probate and
register of
deeds to
make re-
ports.

SEC. 16. Each judge of probate shall on January, April, July and October first of each year, make a report in duplicate upon the forms furnished by the state auditor, containing all the data, and matters required to be entered in such book, one of which shall be immediately delivered to the county treasurer, and the other transmitted to the auditor of the state.

The register of deeds of each county shall, at the same time, make reports in duplicate containing a statement of any conveyance filed or recorded in his office of any property which appears to have been made or intended to take effect in possession or enjoyment after the death of the grantor or vendor, with the name and place of residence of the vendor, or vendee, and the description of the property transferred, as shown by such instrument, one of which duplicates shall be immediately delivered to the county treasurer and the other transmitted to the auditor of the state.

SEC. 17. All taxes levied and collected under this act shall be paid into the treasury of the state and shall belong to and be a part of the revenue fund.

Tax paid
in to state
treasury.

SEC. 18. The words "estate and property," as used in this act, shall be taken to mean the personal property or interest therein of the testator, intestate, grantor, bargainor, or vendor, passing or transferred to those not herein specifically exempted from the provisions of this act, and not as the property or interest therein passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees or vendees, and shall include all property or interest therein taxable under this act, whether situated within or without this state, over which this state has any jurisdiction for the purpose of taxation.

"Estate and
property"
defined.

Provided, that all legal indebtedness against any property taxable under this act which shall be on record in the county where said property is located shall be deducted before such tax is levied.

The word "transfer" as used in this act shall be taken to include the passing of property or any interest therein, in the possession or enjoyment, present or future, by gift, inheritance, descent, bequest, grant, deed, bargain, or sale, in the manner herein prescribed.

"Transfer."

The words "county treasurer" and "county attorney" as used in this act, shall be taken to mean the treasurer and attorney of the county of the probate court having jurisdiction, as provided in section ten (10) of this act.

"County
treasurer"
and "county
attorney."

The provisions contained in this act shall not apply to the estate of any person who shall have or may die prior to the time this act shall take effect.

SEC. 19. This act shall take effect and be in force from and after its passage.

Approved April 11, 1901.

CHAPTER 256.

H. F. No. 438.

An act to abolish highway labor assessment and required all road taxes to be paid in cash in counties containing 150,000 inhabitants or more, and to abolish road overseers of highways in such counties and provide for the appointment of not exceeding three overseers of highways by the board of town supervisors, and prescribe their duties and compensation.

Counties of
over 150,000
inhabitants.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That in all counties in this state now having, or which shall hereafter have, a population of 150,-

Road tax
to be paid
in cash.