

court judges in and for said county. Said deputies shall attend the court of said judges and perform such duties pertaining to the sheriff's office as the sheriff may require; the compensation of each of said deputies be seventeen hundred and sixty-two (\$1,762.00) dollars per annum.

Six General Deputies for night duty who shall each be paid the sum of eighteen hundred and fifty-two (\$1,852.00) dollars per annum; one female deputy or bailiff to attend on mixed juries, who shall be paid the sum of fourteen hundred and fifty-five (\$1,455.00) dollars per annum.

An expense fund of two thousand (\$2,000.00) dollars shall be set aside out of the first moneys received as fees from and after the passage of this Act to be used by the sheriff to meet the current monthly expenses of the office, the money so used to be replaced in said fund at the end of each month when such expense is allowed by the County Board.

Any additional salaries provided for in this Act, unless otherwise provided for, shall be paid out of any money in the county treasury not otherwise appropriated."

Section 2. This act shall take force and be in effect from and after the date of its passage.

Approved July 15, 1937.

CHAPTER 70—H. F. No. 6

An act to impose a tax on gifts, to enforce the same, and to distribute the revenues derived therefrom.

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

Section 1. **Tax on gifts.**—(a) A tax is hereby imposed for the calendar year 1937 and each calendar year thereafter upon the transfer during such calendar year by any person, resident or non-resident, of property by gift.

(b) Wherever the word "person" is used in this act, it shall include individuals, associations, joint stock companies, partnerships and corporations wherever the context permits or requires it.

(c) The tax in the case of a person who is a resident of this state at the date of the transfer shall be on all such transfers if the property transferred has its situs within this state, and for this pur-

pose intangible property shall be conclusively deemed to have its situs therein. The tax in the case of a person who is a non-resident of this state at the date of such transfer shall be on all such transfers if the property transferred has its situs within this state.

(d) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real, personal or mixed, or tangible or intangible.

(e) The tax shall not apply to a transfer of property in trust for the use and benefit of the donor nor to a transfer of property in trust where the power to revest in the donor title to such property is vested in the donor either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by gift.

(f) The tax shall not apply to such transfers made before the effective date of this Act.

(g) The tax shall be computed in the manner and at the rates hereinafter provided.

Section 2. Value of property.—(a) The true and full value of property at the date of its transfer by gift shall be its value for the purpose of computing the tax imposed by this Act. Where property is transferred with donative intent for less than an adequate and full consideration in money or money's worth, then the amount by which its true and full value at the date of its transfer exceeds the value of the consideration shall be deemed a gift, and such excess shall be deemed the value of such gift for the purpose of computing the tax imposed by this Act.

Section 3. Exemptions.—The following transfers by gift shall be exempt from, and excluded in computing, the tax imposed by this Act:

(a) Gifts to or for the use of the State of Minnesota or any political subdivision thereof for exclusively public purposes.

(b) Gifts to or for the use of any fund, foundation, trust, association, organization or corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, the promotion of the arts, or the conduct of a public cemetery if (1) such gift other than for religious or charitable purposes is to be used for such purposes exclusively within this state, and (2) no

part thereof inures to the profit of any private shareholder or individual.

(c) Gifts to a fraternal society, order or association, operating under the lodge system, but only if such gifts are to be used exclusively for the purposes designated in subdivision (b) of this section.

(d) Gifts to or for the use of posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized within the State of Minnesota and if such gifts are to be used exclusively for the purposes designated in subdivision (b) of this section.

(e) All property transferred, money, service or other thing of value, paid, furnished, or delivered by any person, corporation, organization or association to its employes, or to any organization of its employes, directly or indirectly, or to any person, firm or corporation for them or it, including payments to cover insurance, sickness and death benefits, pensions, relief activities, or to any other employes' benefit fund of any kind, and medical service to such employes and their families.

(f) The first \$2500.00 in value of gifts (other than of future interests in property) made to any person by the donor during any calendar year.

Section 4. **Specific exemptions.**—(a) The following specific exemptions shall be deducted in computing the amount of the gifts made to any single donee:

(1) \$10,000.00 if the donee is the wife or minor child, either by blood or by adoption, of the donor.

(2) \$5,000.00 if the donee is the husband, an adult child by blood or by adoption, other lineal descendant, or any mutually acknowledged child of the donor, or lineal descendants of such adopted or mutually acknowledged children.

(3) \$3,000.00 if the donee is a lineal ancestor of the donor.

(4) \$1,000.00 if the donee is a Class C donee, as specified in Section 6 hereof.

(5) \$250.00 if the donee is a Class D donee, as specified in Section 6 hereof.

(b) The exemptions allowed by this section shall be allowed once only with respect to gifts made by a donor to the same donee.

(c) The term "mutually acknowledged child" as used herein means any child to whom the donor, for not less than ten years prior to such transfer, stood in the mutually acknowledged relation of a

parent; provided, however, such relationship began at or before the child's fifteenth birthday and was continuous for said ten years thereafter.

Section 5. **To be based on aggregate gifts.**—(a) The tax shall be based on the aggregate sum of the gifts in excess of the applicable specific exemption made by a given donor to the same donee, and for each calendar year shall be an amount equal to the excess of (1) a tax, computed in accordance with the rates hereinafter set forth, on the excess over the applicable specific exemption of the aggregate sum of such gifts for such calendar year and for each of the preceding calendar years, over (2) a tax, computed in accordance with the rates hereinafter set forth, on the excess over the applicable specific exemption of the aggregate sum of such gifts for each of the preceding calendar years.

Section 6. **Computation of tax.**—(a) The tax imposed by this Act shall be computed by applying to the gifts in excess of the applicable specific exemption made by a given donor to the same donee the schedule of rates specified in subdivisions (b) and (c) of this Section.

(b) The rates on the excess up to \$15,000.00 shall be (1) three-fourths per centum if the donee is a member of Class A donees; (2) one and one-eighth per centum if the donee is a member of Class B donees; (3) two and one-fourth per centum if the donee is a member of Class C donees; (4) three per centum if the donee is a member of Class D donees; and (5) three and three-fourths per centum if the donee is a member of Class E donees. The rates herein specified shall be known as the primary rates.

(c) The rates on such part of said gift as exceeds \$15,000.00 and is not in excess of \$30,000.00 shall be two times the primary rates; on such part thereof as exceeds \$30,000.00 and is not in excess of \$50,000.00, three times the primary rate; on such part thereof as exceeds \$50,000.00 and is not in excess of \$100,000.00, three and one-half times the primary rate; on such part thereof as exceeds \$100,000.00 and is not in excess of \$200,000.00, four times the primary rate; on such part thereof as exceeds \$200,000.00 and is not in excess of \$300,000.00, five times the primary rate; on such part thereof as exceeds \$300,000.00 and is not in excess of \$400,000.00, six times the primary rate; on such part thereof as exceeds \$400,000.00 and is not in excess of \$500,000.00, seven times the primary rate; on such part thereof as exceeds \$500,000.00 and is not in excess of \$600,000.00, eight times the primary rate; on such part thereof as exceeds \$600,000.00 and is not in excess of \$700,000.00, nine times the primary rate; on such part thereof as exceeds \$700,000.00 and is not in excess of \$900,000.00, ten times the primary rate; on such part thereof as exceeds \$900,000.00 and is not in excess of \$1,100,000.00, eleven

times the primary rate; and upon such part thereof as exceeds \$1,100,000.00, twelve times the primary rate.

(d) The tax shall, however, in no case exceed thirty-five per centum of the full and true value of the gifts in excess of the applicable specific exemption made by the given donor to the same donee. If the tax imposed herein is assessed against and attempted to be collected from the donee, the tax shall in no case exceed thirty-five per centum of the full and true value of the gift in excess of the applicable specific exemption after deducting therefrom any gift tax imposed by the United States government if such federal tax was assessed against and collected from the donee.

(e) Class A donee shall include only the wife and lineal issue of the donor, an adopted child of the donor, and the lineal issue of any such adopted child. Class B donees shall include only the husband of the donor, lineal ancestors of the donor, any child of the donor to whom he or she has stood in the mutually acknowledged relation of parent for not less than 10 years prior to the making of the gift if such relationship began at or before such child's fifteenth birthday and was continuous for 10 years thereafter, and the lineal issue of such child. Class C donees shall include only a brother or sister of the donor, a descendant of such brother or sister, a wife or widow of a son of the donor, and the husband of a daughter of the donor. Class D donees shall include only the brother or sister of the father or mother of the donor, and a descendant of a brother or sister of the father or mother of the donor. Class E donees shall include all donees other than those includible in the foregoing classes.

Section 7. Shall make return to the attorney general.—(a) Every person making any gifts other than those exempted by Section 3 of this Act, during that part of the calendar year 1937 subsequent to the effective date of this Act, or during any subsequent calendar year, shall make a return thereof in duplicate to the Attorney General of the State of Minnesota. Every return shall specifically set forth the property transferred by gift, the date of the gift, the value at the date of the gift of every item of property transferred by gift, the name and residence of each donee and the relationship of the donee to the donor, and, in the case of property transferred for less than an adequate consideration in money or money's worth, the character and value of the consideration received by the donor. The Attorney General may also require such other information to be given on such return as may be necessary for the effective enforcement of this Act. The return shall be in such form as he may prescribe as necessary to compute the tax imposed by this Act, and shall be under oath of the person making the return. The return in the case of a donor dying prior to the date when he is required to make a return shall be made on his behalf by his executor or administrator; that of a person for

whom or whose property a guardian has been appointed shall be made by the guardian of his person or his property or both; and that of a person employing any device to make gifts indirectly shall be made by him and by those in charge or in control of the agency or instrumentality through which such person is making gifts indirectly.

(b) The returns required to be made under subdivision (a) of this Section shall be filed with the Attorney General on or before the first day of March of the calendar year immediately succeeding that for which the return is made.

(c) The Attorney General may, whenever in his opinion good cause exists therefor, extend the time for filing any return required hereunder for not to exceed three months.

(d) The Attorney General may, whenever necessary in his opinion to the effective enforcement of this Act, require donees to file a return of gifts received by them, and such return may require such donees to report such information as is necessary to the effective enforcement of this Act. Returns required hereunder shall be filed with the Attorney General within 30 days after he has mailed notice and demand therefor to the last known address of the donee required to make such return.

Section 8. Attorney general to determine and assess taxes.—

(a) The Attorney General shall determine and assess all taxes imposed by this Act. The tax shall be assessed upon the donor, and shall be paid by him to the Treasurer of the State of Minnesota within sixty days after notice of such assessment shall have been served upon him. The tax in the case of a donor who has died prior to its assessment shall be assessed upon his executor or administrator, and be paid by such executor or administrator within 60 days after notice of such assessment shall have been served upon him. The tax in the case of indirect gifts may, in the discretion of the Attorney General, be assessed upon the donor, or the person or persons in charge or in control of the agency or instrumentality through which such donor is making indirect gifts, or upon both, and shall be paid by the person upon whom it is assessed within 60 days after notice of such assessment shall have been served upon him (but one tax only shall be collected in such case). Notice of assessment shall be deemed to have been made within the meaning of this subdivision (a) when a letter containing such notice has been mailed to the last known address of the person upon whom the assessment is made.

(b) The tax shall become a personal liability of the person upon whom it is assessed, if such person is a resident of this state, from the date of its assessment, shall remain such until such tax is paid, and may be collected by an action at law in the name of this state which may be brought in the district court of the judicial district in

which such person resides or has his principal place of business or in the district court for Ramsey County. The foregoing provisions shall also apply where such person is a non-resident of this state, so far as that is permissible under the provisions of the Constitutions of the United States and this state.

(c) If the tax is not paid when due, the donee of any gift shall be personally liable for such tax to the extent of the value of such gift. At any time after any transfer taxable hereunder is made which includes any real property, the Attorney General may file with the Register of Deeds of the county in which such real property is located, a claim of lien for the estimated amount of the tax due hereunder describing the real property against which such lien is claimed, and may supplement or amend such claim after the amount of tax has been determined. From the time of the filing of such lien until it is satisfied by the Attorney General, the tax imposed hereunder shall be a lien upon such real property. If the Attorney General is satisfied that the tax liability has been fully discharged or provided for, he may under regulations prescribed by him, issue a certificate releasing any or all of such real property from the lien herein imposed.

(d) If the donor shall fail to pay the tax within the time provided in Subdivision (a) of this section, the Attorney General may serve a notice upon the donee stating the amount of the tax and the date when it became due. If the tax is not paid within 30 days after the mailing of said notice to the donee at the address given in the return or the last known address of said donee, the tax may be collected from such donee in the same manner as provided with respect to donors in Subdivision (b) of this section, and said donee shall thereafter be liable to the penalties provided in Section 10 of this act.

Section 9. Failure to make return.—(a) If any person shall fail to make any return required under this Act at the time required thereby, the Attorney General may, twenty days after having sent a notice by registered mail to the last known address to such person and an opportunity for a hearing, make for him a return from his own knowledge and from such information as he can obtain through testimony or otherwise, and assess a tax on the basis thereof which shall be paid within 30 days after the Attorney General shall have mailed to such person a written notice of the assessment and demand for the payment of the tax thus assessed. Such assessment shall be prima facie valid and the burden of proving the invalidity thereof or any error in the calculation of such tax or any penalty included therein shall be upon the person against whom it is assessed.

The Attorney General shall have the same powers as are conferred upon him by subdivision (a) for the assessment of additional taxes in case the returns filed by any person required to file a return are incorrect, or false or fraudulent with intent to evade the tax or postpone its payment; and, if the return was false or fraudulent with

intent to evade the tax or postpone its payment, the assessment made by the Attorney General shall be immune to attack to the same extent as an assessment made under subdivision (a) of this Section.

Section 10. Violation a gross misdemeanor.—If any person shall, without intent to evade the tax or to postpone its payment, fail to make any return required to be made by him under this Act at the time required therein, there shall be imposed on him a specific penalty of five per centum of the tax as finally assessed. If any person shall, *with intent to evade the tax or to postpone its payment either fail to make a return when required by this Act or make a false or fraudulent return*, there shall be imposed upon him a specific penalty of twenty per centum of the taxes finally assessed, and such person shall also be guilty of a gross misdemeanor.

(b) If any person shall fail to pay any tax due under this Act at the time required thereby for such payment, there shall be imposed upon him a specific penalty of five per centum of the tax as finally assessed.

(c) The Attorney General may, upon the filing of an affidavit by or on behalf of any person referred to in subdivision (b) of this section, if in his opinion good cause exists therefor, extend the time for payment of the tax and penalty for not to exceed three months.

(d) If any tax imposed by this Act, or any portion of such tax, is not paid when first due and payable thereunder, there shall be added thereto interest at the rate of six per centum per annum from the time above specified.

(e) The penalties and interest imposed by this Section may be collected as part of the tax or by separate actions brought by the Attorney General in the name of the state for their recovery in any court in which actions for the collection of taxes imposed by this Act may be brought under its provisions.

(f) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

Section 11. Attorney general to issue certificates of refundment.—The Attorney General may issue certificates for the refundment of any taxes paid by, or collected from, any person who has paid a tax in excess of the amount of tax legally due from him under the provisions of this Act if claim therefor is filed with the Attorney General within two years after such tax was paid or collected. The refundment certificate shall be for the amount of the tax illegally paid or collected, plus interest thereon at the rate of six per centum per annum from the date of the payment or collection of the tax until the date the refund is paid, and the state auditor shall cause such refund to be paid out of any funds in the state treasury not

otherwise appropriated. No refund shall be denied merely because the tax was voluntarily paid or no protest made to its payment.

Section 12. Appeal to District Court.—Any person aggrieved by the determination and assessment of a tax by the Attorney General, or his denial of a claim for refund, may appeal therefrom to the District Court of the county in which said person resides, or if said person is a non-resident of this State, to the District Court of Ramsey County, by filing, within thirty days after said determination, with the Attorney General a notice in writing setting forth his objections to such determination and that he appeals therefrom, and thereupon within thirty days thereafter the Attorney General shall transmit the original papers and records which have been filed with him in relation to such matter to the clerk of the District Court to which the appeal shall have been taken, and thereupon said court shall acquire jurisdiction of such proceeding. Upon 15 days' notice given to the Attorney General by the appellant, the matter may be brought on for hearing and determination by such court either in term time or vacation, at the general or special term of said court, or at the chambers as may be directed by order of the court. The said court may determine any and all questions of law and fact necessary to the enforcement of the provisions of this act according to its intent and purpose, and by order direct the correction, amendment or modification of any determination made by the Attorney General.

On such hearing either party may introduce the testimony of witnesses and other evidence in the same manner and subject to the same rules which govern in civil actions. When necessary, the court may adjourn or continue its hearings from time to time, to enable the parties to secure the attendance of witnesses or the taking of depositions. Depositions may be taken and used in such proceedings in the same manner as is now provided by law for the taking of depositions in civil actions.

The Attorney General and any person aggrieved by the order of the district court may appeal to the supreme court from any such order made by said courts, within the time and in the manner now provided by law for the taking of appeals from orders in civil actions.

After the filing of the notice of appeal, and during the pendency of the appeal and for thirty days after final disposition thereof, no penalty shall be imposed under Section 10 hereof.

Section 13. Tax on gift to be credited to inheritance tax in certain cases.—If a tax has been imposed on any gift under this Act and thereafter upon the death of the donor an inheritance tax is imposed upon the same gift by this state, there shall be credited against the inheritance tax resulting from the inclusion of such gift in the computation of such inheritance tax an amount equal to the

gift tax resulting from the inclusion of such gift in the computation of the gift tax on gifts from such donor to the donee who received such gift.

Section 14. **Provisions severable.**—If any part or provisions of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or affect the operative effect of any other part or provision of the remainder of this act; and, if any part or provision of this act shall for any reason be adjudged by any court of competent jurisdiction constitutionally inapplicable to any case within the terms of such part or provision, such judgment shall not impair or affect the operative effect of such part or provision as applied to any other type of case within their terms.

Approved July 16, 1937.

CHAPTER 71—H. F. No. 136

An act relating to cancellation of real estate tax judgment sale certificates, state assignment certificates and forfeited tax sale certificates.

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

Section 1. **Cancellation of tax certificates.**—Upon request of the holder of a real estate tax judgment sale certificate, state assignment certificate or forfeited tax sale certificate and surrender of the same, whether notice of expiration of time of redemption has been issued and served or not, the county auditor shall cancel the same, making an entry in the proper copy real estate tax judgment book opposite the description of land covered by the certificate, "Cancelled by surrender of certificate".

Section 2. **County auditor to cancel certificates.**—The county auditor shall annually, as soon as practicable after the second Monday of May, cancel of record all real estate tax judgment sale certificates, state assignment certificates and forfeited tax sale certificates upon which notice of expiration of time of redemption has not been given within a period of six years next following the date of the issuance of such certificate, by making an entry in the proper copy real estate tax judgment book opposite the description of land covered by such certificate, "Cancelled by limitation".

Section 3. **Cancellation by order of district court.**—Upon the petition of any person interested in the land covered by a real estate tax sale certificate, state assignment certificate or forfeited tax sale