

CHAPTER 593—H. F. No. 1380.

(AMENDING SECTIONS 291.13, 291.19, 291.21, 291.26, 291.18, 291.30, 291.32 AND 291.33 MINNESOTA STATUTES 1941.)

An act relating to inheritance and transfer taxes, amending Mason's Supplement 1940, Sections 2296, 2302, 2304, Subdivision 4, and 2309, and Mason's Minnesota Statutes of 1927, Sections 2301, 2313, 2315 and 2316.

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

Section 1. **Law amended.**—Mason's Supplement 1940, Section 2296, is amended to read as follows:

“2296. **Taxes to paid to county or state treasurer.**—*Subdivision 1.* The tax imposed by this act upon inheritance, devises, bequests, legacies, gifts and other transfers shall be paid to the treasurer of the county in which the probate court having jurisdiction is located or, where there are no probate proceedings in this state to the *commissioner of taxation.*

Subdivision 2. *If the tax is paid to the county treasurer he shall give the executor, administrator, trustee or person paying such tax, duplicate receipts therefor, one of which shall be immediately transmitted to the commissioner of taxation, whose duty it shall be to verify the correctness of the amount so paid and thereupon to countersign the same and return it to the executor, administrator or trustee, or other person paying such tax, whereupon it shall be a proper voucher in the settlement of his accounts. The county treasurer upon receiving written notice from the commissioner of taxation that the receipt has been countersigned and delivered, shall transmit the amount so paid to the commissioner of taxation.*

Subdivision 3. *If the tax is paid directly to the commissioner of taxation he shall, after verifying the correctness of the amount so paid, issue his receipt to the executor, administrator or trustee, or other person paying such tax, and it shall be a proper voucher in the settlement of his accounts.*

Subdivision 4. No executor, administrator, 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, until he shall produce a receipt, countersigned or issued by the *commissioner of taxation*, or a certified copy of the same.

Subdivision 5. All taxes paid under the provisions of this act shall be deposited by the *commissioner of taxation* in the state treasury, and shall belong to and be a part of the revenue fund of the state.”

Sec. 2. **Law amended.**—Mason's Minnesota Statutes of 1927, Section 2301, is amended to read as follows:

“2301. **Tax erroneously paid—refundment.**—When any tax imposed by this act shall have been erroneously paid, wholly or in part, the person paying the same shall be entitled to a refundment of the amount so erroneously paid *in the manner provided by Mason's Minnesota Statutes of 1927, Section 2315, as amended*, provided, however, that all applications for such refunding of erroneous taxes shall be made within three years from the payment thereof.”

Sec. 3. **Law amended.**—Mason's Supplement 1940, Section 2302, is amended to read as follows:

“2302. **Transfer by foreign executors—personal property of non-resident decedent.**—*Subdivision 1.* If a foreign executor, administrator or trustee shall assign or transfer any stock or obligation in this state, standing in the name of a decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the *commissioner of taxation* on the transfer thereof, and no such assignment or transfer shall be valid until such tax is paid.

Subdivision 2. If any nonresident of this state dies owning personal property in this state, such property may be transferred or assigned by the personal representative of, or trustee for the decedent, only after such representative or trustee shall have procured a certificate from the *commissioner of taxation* consenting to the transfer of such property. Such consent shall be issued by the *commissioner of taxation* only in case there is no tax due hereunder; or in case there is a tax, when the same shall have been paid.

Subdivision 3. Any personal representative, trustee, heir or legatee of a *nonresident* decedent desiring to transfer property having its situs in this state may make application to the *commissioner of taxation* for the determination of whether there is any tax due to the state on account of the transfer of the decedent's property and such applicant shall furnish to the *commissioner of taxation* therewith an affidavit setting forth a description of all property owned by the decedent at the time of his death and having its situs in the state of Minnesota, the value of such property at the time of said decedent's death; also when required by the *commissioner of taxation*, a description of and statements of the true value of all the property owned by the decedent at the time of his death and having its situs outside the state of Minnesota, and also a schedule or statement of the valid claims against the estate of the decedent, including the expenses of his last sickness and funeral and the expenses of administering his estate, *to the extent that such claims were incurred within this state.* Such person shall

also, on request of the *commissioner of taxation*, furnish to the latter a certified copy of the last will of the decedent in case he died testate, or an affidavit setting forth the names, ages and residences of the heirs at law of the decedent in case he died intestate and the proportion of the entire estate of such decedent inherited by each of said persons, and the relation, if any, with each legatee, devisee, heir, or transferee sustained to the decedent or person from whom the transfer was made. Such affidavits shall be subscribed and sworn to by the personal representative of the decedent or some other person having knowledge of the facts therein set forth.

Subdivision 4. The statements in any such affidavits as to value or otherwise shall not be binding on the *commissioner of taxation* in case he believes the same to be untrue. From the information so furnished to him and such other information as he may have with reference thereto, the *commissioner of taxation* shall, with reasonable expedition, determine the amount of tax, if any, due the state under the provisions of this act and notify the person making the application of the amount thereof claimed to be due. On payment of the tax so determined to be due or in case there is no tax due to the state, the *commissioner of taxation* shall issue a consent to the transfer of the property so owned by the decedent.

Subdivision 5. Any person aggrieved by the determination of the *commissioner of taxation* in any matter hereinbefore provided for, may within twenty days thereafter appeal to the district court of Hennepin county, or Ramsey county, Minnesota, by filing with the *commissioner of taxation* a notice in writing setting forth his objections to such determination and that he appeals therefrom and thereupon within ten days thereafter the *commissioner of taxation* shall transmit the original papers and records which have been filed with him in relation to such application for consent, to the clerk of the district court to which the appeal shall have been taken, and thereupon said court shall acquire jurisdiction of such application and proceeding. Upon eight days' notice given to the *commissioner of taxation* by the appellant, the matter may be brought on for hearing and determination by such court either in term time or vacation, at a general or special term of said court, or at 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 may by order direct the correction, amendment or modification of any determination made by the *commissioner of taxation*.

Subdivision 6. 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.

Subdivision 7. The *commissioner of taxation* and any person aggrieved by the order of the district court may appeal to the supreme court from any such order by said courts, within the time and in the manner now provided by law for the taking of appeals from orders in civil actions."

Sec. 4. **Law amended.**—Mason's Supplement 1940, Section 2304, subdivision 4, is amended to read as follows:

"(4) **Commissioner of taxation to receive list of property.**—Upon making and filing the order determining the tax, a copy thereof shall be served on the county treasurer, the *commissioner of taxation*, and the representatives of the estate. Within 30 days thereafter the *commissioner of taxation* or any other interested party may file written objections thereto with the probate court, and apply for a reassessment and redetermination of the tax. The court shall thereupon set a time for hearing thereof, and give at least ten days' notice to the *commissioner of taxation*, the county treasurer and other interested parties. Upon such hearing the court may set aside or amend its order, or any part thereof. Notice of the order made after such hearing shall be served in the same manner as the original order."

Sec. 5. **Law amended.**—Mason's Supplement 1940, Section 2309, is amended to read as follows:

"2309. **Probate court to report to commissioner of taxation and state auditor.**—The probate court upon serving a copy of the order determining the tax, as herein provided shall deliver to the *commissioner of taxation*, a full report showing such other matters in connection therewith as may be required by the *commissioner of taxation* upon such forms as may be furnished by him to said court or as may be particularly requested. The county board may allow the county treasurer and the judge of probate to employ such additional clerical assistance for all or part of the time as may be necessary to properly perform the additional duties imposed upon such officers by the inheritance tax law."

Sec. 6. **Law amended.**—Mason's Minnesota Statutes of 1927, Section 2313, is amended to read as follows:

"2313. *Subdivision 1.* **When estate of non-resident not probated.**—The *commissioner of taxation*, by and with the consent

and approval of the *attorney general*, in case of the estate of a non-resident decedent whose estate has not been probated in this state, and the consent and approval of the probate judge in the case of any estate probated in this state, expressed in writing, is hereby authorized and empowered to enter into an agreement with the trustees of any estate in which remainders or expectant estates are of such a nature or so disposed and circumstanced that the taxes are not presently payable or where the interests of the legatees or devisees are or were not ascertainable under the provisions of this chapter, at the time fixed for the appraisal and determination of the tax on estates and interests transferred in fee, and to thereby compound the tax upon such transfers upon such terms as are deemed equitable and expedient; to grant a discharge to said trustees on account thereof upon payment of the taxes provided for in such composition agreement; provided, however, that no such composition shall be conclusive in favor of said trustees as against the interests of such cestui que trust as may possess either present rights of enjoyment, or fixed, absolute or indefeasible, rights of future enjoyment or of such as would possess such rights in the event of the immediate termination of any particular estate, unless they consent thereto either personally or by duly authorized attorney, when competent, or by guardian or committee. Composition agreements made, affected and entered into under the provisions of this section shall be executed in triplicate, and one copy thereof filed in the probate court of the county in which the tax is to be paid, one copy in the office of the *commissioner of taxation* and one copy shall be delivered to the persons paying the tax thereunder.

Subdivision 2. The *commissioner of taxation* shall not consent to the assignment or delivery of any property embraced in any legacy, devise or transfer from a nonresident decedent to a nonresident trustee thereof under the provisions of *Mason's Supplement 1940, Section 2302, as amended*, where the property embraced in such legacy, devise or transfer is so circumstanced and disposed of that the tax thereon cannot be presently ascertained, but is so circumstanced and disposed of as to authorize him to enter into a composition agreement with reference to the tax on any estate or interest therein as herein provided, until the tax on the transfer of any such estate or interest shall have been compounded and the tax paid as hereinbefore provided for; or in lieu thereof the trustee or other person to whom the possession of such property is delivered shall have made, executed and delivered to the *commissioner of taxation*, a bond to the state of Minnesota in an amount equal to the amount of tax which in any contingency may become due and owing to the state on account of the transfer of such property, such bond to be approved by the *commissioner of*

taxation and conditioned for the payment to the state of Minnesota of any tax which may accrue to the state under this act on the subsequent transfer or delivery of the possession of such property to any person beneficially entitled thereto. The provisions of *Mason's Minnesota Statutes of 1927, Sections 9677, 9686, and 9689, as amended*, shall apply to the execution of said bond and the qualification of the surety or sureties thereon.

Subdivision 3. No property having its situs in this state embraced in any legacy or devise bequeathed or devised to a nonresident trustee and circumstanced or disposed of as last hereinbefore described, shall be decreed and distributed by any court of this state to such nonresident trustee until he shall have compounded and paid the tax as provided for in this section; or in lieu thereof given a bond to the state as provided for in this section with reference to transfers of property owned by nonresident decedents."

Sec. 7. Law amended.—Mason's Minnesota Statutes of 1927, Section 2315, is amended to read as follows:

"2315. **Refundment of tax.**—Whenever, under the provisions of *Mason's Supplement 1940, Section 2294, as amended, or Mason's Minnesota Statutes of 1927, Section 2301, as amended*, any person or corporation shall be entitled to a return of any part of a tax previously paid, he shall make application to the *commissioner of taxation* for a determination of the amount which he is entitled to have returned, and on such application shall furnish the *commissioner of taxation* with affidavits and other evidence showing the facts which entitle him to such return and the amount he is entitled to have returned. The *commissioner of taxation with the approval of the attorney general* shall thereupon determine the amount, if any, which the applicant is entitled to have returned, and shall *cause such refund to be paid in the manner provided by law*.

It shall be the duty of the state treasurer to pay warrants *therefor* out of any funds in the state treasury not otherwise appropriated. The moneys necessary to pay such warrants are hereby appropriated out of any moneys in the state treasury not otherwise appropriated.

Any person aggrieved by the determination of the *commissioner of taxation* may appeal to the district court in the manner and with the same effect as is provided for in *Mason's Supplement 1940, Section 2302, as amended*."

Sec. 8. Law amended.—Mason's Minnesota Statutes of 1927, Section 2316, is amended to read as follows:

“2316. **Payments to counties.**—On or before the first of November in each year the *commissioner of taxation* shall determine the amount of inheritance tax which has been paid in to the *commissioner of taxation* by the county treasurers of the several counties of this state, from estates of residents thereof, during the preceding fiscal year ending July 31, and the amount returned under the provisions of *Mason's Minnesota Statutes of 1927, Section 2315, as amended, which was originally paid to the county treasurer, and shall cause to be paid to each county from which any tax shall have been received during the fiscal year ending July 31 next preceding, ten per cent of the amount of the inheritance tax money so received from each such county respectively, less ten per cent of any tax which has been returned under the provisions of Mason's Minnesota Statutes of 1927, Section 2315, as amended, and which was originally paid to the county treasurer of any such county. Said payments shall be transmitted to the county auditor of each county, to be placed to the credit of the county revenue fund.*

It shall be the duty of the state treasurer to pay warrants therefor out of any funds in the state treasury not otherwise appropriated. The moneys necessary to pay such warrants are hereby appropriated out of any moneys in the state treasury not otherwise appropriated.”

Sec. 9. **Effective July 1, 1943.**—*This act shall take effect July 1, 1943. Nothing in this act shall affect any liability for taxes, interest, and penalties incurred prior to its effective date.*

Approved April 23, 1943.

CHAPTER 594—H. F. No. 1444.

An act relating to the organization and administration of state government, appropriating money therefor, and creating a legislative advisory committee.

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

Section 1. Subdivision 1. **General contingent appropriation authorized—transfers—legislative advisory committee created.**—There is hereby authorized one general contingent appropriation for each year of the biennium in such amount as the legislature may deem sufficient. Transfers from such appropriation to the