

sioner of public welfare, or any institution under his control, *or as mentally deficient, mentally ill, senile, or psychopathic personality, and each such person restored to capacity by the court, or by final discharge of commitment reported to the court.* Upon receipt of such report, the commissioner shall examine the original and duplicate registration files; and, if such examination discloses that any of the persons named in such report as being under guardianship of the person, or committed, ~~to the commissioner of public welfare, or any institution under his control,~~ are registered, the commissioner *may shall* remove and destroy the registration cards of such persons *from the active files*; and, if the commissioner finds from such examination that the names of the persons restored to capacity or discharged from guardianship are not registered, he shall immediately notify such persons by mail that it is necessary for them to register upon notice from the judge of probate of a restoration to capacity, *the commissioner shall then process the person's registration card in the same manner as if no guardianship or commitment had occurred.*

Approved April 20, 1961.

CHAPTER 698—H. F. No. 1698

[Coded]

An act providing for the apportionment of federal estate or other death taxes.

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

Section 1. [525.521] **Federal estate or other death taxes, apportionment.** Whenever it appears upon any accounting, or in any appropriate action or proceeding, that an executor, administrator, temporary administrator, testamentary trustee or other person acting in a fiduciary capacity, hereinafter called "fiduciary", has paid or may be required to pay an estate tax or other death tax under any law of the United States upon or with respect to any property required to be included in the gross taxable estate of a decedent under the provisions of any such law, hereinafter called "the tax", the amount of the tax, except in a case where a testator otherwise directs in his will, and except in a case where by any instrument other than a will, hereinafter called

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a "non-testamentary instrument", direction is given for apportionment within the fund of taxes assessed upon the specific fund dealt with in such non-testamentary instrument, shall be apportioned among the persons interested in the gross tax estate whether residents or non-residents of the state to whom such property is or may be transferred or to whom any benefit therein accrues, hereinafter called the "persons benefited", in accordance with the rules of apportionment herein stated, and the persons benefited shall contribute to the tax the amounts apportioned against them.

Sec. 2. [525.522] Trusts or other temporary interests. In the absence of direction to the contrary, where a trust is created, or other provision made whereby any person is given an interest in income, or an estate for years, or for life, or other temporary interest in any property or fund, and tax apportionable against both such temporary interest and the remainder thereafter shall be charged against and shall be paid out of the corpus of such property or such fund without apportionment between remainders and temporary estates. Provisions of this section shall apply notwithstanding that the holder of the temporary interest is given rights to the corpus, but shall not apply to a common law annuity.

Sec. 3. [525.523] Method of apportionment. In the absence of directions to the contrary, (i) apportionment of the tax shall be made among the persons benefited in the proportion that the value of the property or interest received by each such person benefited bears the total value of the property and interest received by all persons benefited, the values as finally determined in the respective tax proceedings being the values to be used as the basis for apportionment of the respective taxes; (ii) any exemption or deduction allowed under the law imposing the tax by reason of the relationship of any person to the decedent or by reason of the charitable purposes of the gift shall inure to the benefit of the person bearing such relationship or receiving such charitable gifts, as the case may be; (iii) any deduction for property previously taxed and any credit for gift taxes paid by the decedent shall inure to the benefit of all persons benefited, and the tax to be apportioned shall be the tax after allowance of such deduction and credit; (iv) any interest resulting from late payment of the tax shall be apportioned in the same manner as the tax and shall be charged wholly to corpus; and (v) any discount allowed for prepayment of the tax shall be credited wholly to the

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corpus of the fund or funds contributing the money used for the prepayment in proportion to the contribution made.

Sec. 4. [525.524] Directions as to apportionment; limitations. Any direction as to apportionment or non-apportionment of the tax, whether contained in a will or in a non-testamentary instrument, shall be limited in its operation to the property passing thereunder unless such will or instrument otherwise directs.

Sec. 5. [525.525] Property not coming into possession of fiduciary. In all cases in which any property required to be included in the gross tax estate does not come into the possession of the fiduciary, he shall be entitled, and it shall be his duty, to recover from the persons benefited or from whoever is in possession of such property, the proportionate amounts of the tax and any interest which is or may be payable by the persons benefited, and the probate court may by order direct the payment thereof to the fiduciary. The probate court may by order charge such payment against the shares or interest of the persons benefited in any assets in the hands of the fiduciary or persons in possession of this property. If the fiduciary cannot recover the amount of the tax and interest apportioned against a person benefited such non-recovered amount shall be charged in such manner as the probate court may determine.

Sec. 6. [525.526] Apportionment before distribution. No fiduciary shall be required to transfer, pay over, or distribute to any person other than the fiduciary charged with the duty to collect and pay the tax any fund or property with respect to which the tax is or may be imposed until the amount of the tax apportioned or which may be apportioned against such fund or property and any interest due from the persons entitled to such fund or property is paid, or, that the tax has not been determined or apportionment made, until adequate security for such payment is furnished to the person making such transfer, payment, or distribution.

Sec. 7. [525.527] Duties of court. The probate court shall make such preliminary, intermediate, or final decrees or orders as it shall deem advisable tentatively or finally apportioning the tax and any interest, directing the fiduciary to collect the apportioned amounts from the property or interests in his possession of any persons against whom such apportionment has been made and directing all other persons against whom the tax and any interest have

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been or may be apportioned or from whom any part of the tax and any interest may be recovered to make payment of such apportioned amount to such fiduciary; and if it shall be ascertained in such proceeding that the property in the hands of the fiduciary otherwise payable to another person liable for any part of the tax and interest is insufficient to discharge the liability of such other person the probate court may direct that the balance of the apportioned amount due shall be paid to the fiduciary by such other person. If in the course of the proceeding it shall be ascertained that more than the proportionate amount of the tax and interest due from any person has been paid by him or on his behalf the probate court may by decree or order direct appropriate reimbursement of the overpayment. If the probate court shall apportion any part of the tax against any person interested in non-testamentary property or if the probate court shall make any apportionment of the tax among the respective interests created by any non-testamentary instrument, it may, in its discretion, assess against such property or interest, as the case may be, an equitable share of the expenses in connection with the determination of the tax and in connection with the apportionment thereof. The probate court may retain jurisdiction of any proceeding until the purposes of this section have been accomplished.

Sec. 8. This act shall apply to all estates of persons dying after December 31, 1961.

Approved April 20, 1961.

CHAPTER 699—H. F. No. 1707

An act relating to the sale of intoxicating liquor; amending Minnesota Statutes 1957, Section 340.72.

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

Section 1. Minnesota Statutes 1957, Section 340.72, is amended to read:

340.72 Sales, where forbidden. The sale of intoxicating liquor in any quantity whatever is also forbidden in the following places:

(1) In any town or municipality in which a majority of votes at the last election at which the question of license

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