

Section 1. Minnesota Statutes 1961, Section 490.102, is amended by adding a new subdivision to read:

[Subd. 3A.] **District court judges; retirement allowance.** *If a judge of the district court has attained the age of at least 70 years and has completed ten or more years of service as a district court judge (or fifteen or more years as a judge of a court of record including at least six years as a district court judge) but less than the number of years required for maximum retirement benefits; he may apply for retirement and receive retirement pay of that portion of the maximum retirement allowance allotted to the office which the years of his service as a district court judge, prior to his retirement, bears to the number of years required for the maximum retirement allowance of a district-court judge. Years of service shall be determined by the whole year rather than a fraction thereof. (Any district court judge presently serving who is over 70 years of age shall forfeit any benefits under this section if he shall serve beyond the expiration of his present term.)*

Approved May 16, 1963.

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CHAPTER 740—S. F. No. 902

[Coded in Part]

*An act relating to inheritance, estate and transfer taxes; amending Minnesota Statutes 1961, Sections 291.01, Subdivisions 4 and 5, and 291.07, 291.09, 291.11, Subdivision 1, 291.12, 291.13, 291.14, 291.18, 291.21, 291.22, 291.24, 291.25, 291.26, 291.27, 291.29, Subdivision 4, 291.30, 291.32, Subdivision 1, 291.33, 291.34, 291.37, 525.481, 525.482, 525.71, 271.09, Subdivision 1; and amending Chapter 291 by adding a new section.*

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

Section 1. Minnesota Statutes 1961, Section 291.01, Subdivision 4, is amended to read:

Subd. 4. **Inheritance, estate and transfer taxes; jointly owned property.** (1) Whenever any property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositaries in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance

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tax imposed by this chapter, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than an adequate and full consideration in money or money's worth; in which case there shall be excepted only such part as is proportionate to the consideration furnished by the survivor or survivors. Provided, where any property has been acquired prior to April 29, 1935, by the decedent and spouse, as joint tenants, not in excess of one-half of the value thereof shall be taxable. Provided, further, where property has been acquired at any time by gift, bequest, devise, or inheritance, by the decedent and any other person or persons, as joint tenants, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value of the property by the number of joint tenants.

(2) Every tax imposed upon property taxable under subdivision 4 shall be a lien upon the interest of the deceased joint tenant until paid, and the survivor or survivors shall be personally liable for such tax to the extent of the value of such property. Such lien shall be limited to a period of ten years from the date of recording a copy of the death record of the deceased joint tenants.

(3) ~~The commissioner of taxation shall determine the inheritance tax, if any, under subdivision 4.~~ When the tax is paid or if there is no tax, or if a bond is filed to insure the payment of any tax, penalty and interest that may be due, in an amount and in the form to be prescribed by the commissioner, or if there is deposited with the commissioner, cash, security or other property in an amount equal to 150 percent of the effective rate at *amount of tax* which, in the judgment of the commissioner, *would be due upon the transfer of such property* ~~would be taxed~~, or if, in the judgment of the commissioner, there are sufficient assets in the estate to insure the payment of any tax, penalty and interest that may be due on such property, ~~The the~~ commissioner of taxation shall make and deliver to the surviving joint tenant, his certificate to that effect, and the said certificate may be recorded as other instruments affecting the title to real estate.

Section 2. Minnesota Statutes 1961, Section 291.01, Subdivision 5, is amended to read:

Subd. 5. **Life insurance policies.** (1) The proceeds of all life or accident insurance policies taken out by decedent and payable on account of his death, receivable by named beneficiaries, shall be subject to the tax herein imposed, as follows:

(a) The proceeds of all such policies hereafter issued payable to named beneficiaries.

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(b) The proceeds of all such policies now in force payable to named beneficiaries in which the insured has the right to change the beneficiary or under which he has cash surrender right.

(2) Such proceeds shall be deemed a transfer within the meaning of that term as used in this chapter and a part of decedent's estate, and shall be taxable to the person or persons entitled thereto.

(3) Every corporation, partnership, association, individual, order or society authorized to transact life, accident, fraternal, mutual benefit, or death benefit insurance business which shall pay to any person, association, or corporation any insurance or death benefit in excess of \$1,000 or shall transfer any unpaid balance of, or any interest in, any annuity contract or deposit, upon the death of a resident of this state, shall give notice of such payment or transfer to the commissioner of taxation within ten days from the date thereof. Such notice shall be given on the forms prescribed by the commissioner of taxation, and such notice shall set forth such information as the commissioner of taxation shall prescribe.

~~(4) The commissioner of taxation shall determine the tax, if any, under subdivision 5.~~

Sec. 3. Minnesota Statutes 1961, Section 291.07, is amended to read:

291.07 **Deductions.** *Subdivision 1.* In determining the tax imposed by Minnesota Statutes, Section 291.01, where an estate has been submitted to the jurisdiction of the probate court, ~~the probate court in computing the tax shall allow as deductions: the following deductions shall be allowed:~~

- ~~1-~~ (1) funeral expenses
- ~~2-~~ (2) administration expenses
- ~~3-~~ (3) expenses of last illness
- ~~4-~~ (4) claims against the decedent which have been properly filed and allowed as such by the probate court
- ~~5-~~ (5) family maintenance to the extent provided by Minnesota Statutes, Section 291.10
- ~~6-~~ (6) allowances to the surviving spouse
- ~~7-~~ (7) the federal estate tax
- ~~8-~~ (8) other taxes which have accrued or are a lien on property in the estate at the time of death.

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In the event that the full value of the estate submitted to probate court *probate assets* as finally determined is less than the total amount of deductions allowed by the probate court the difference shall be deducted by the commissioner from the value of *non-probate assets* before making any tax computation under Minnesota Statutes, Chapter 291.

*Subdivision 2.* In determining the tax imposed by Minnesota Statutes, Section 291.01, where an estate has not been submitted to the probate court the commissioner shall allow there shall be allowed as deductions:

1. (1) funeral expenses
2. (2) expenses of last illness
3. (3) the federal estate tax.

Where an estate has not been submitted to the probate court, funeral expenses and expenses of last illness shall be allowed only as against amounts received by the surviving spouse or amounts received by persons actually having disbursed moneys for payments of funeral expenses and expenses of last illness.

*Subdivision 3.* No deduction shall be allowed unless the person claiming the deduction when requested by the probate court or the commissioner, furnishes the court or the commissioner with information sufficient to enable the court or commissioner to determine the validity or correctness thereof.

Section 4. Minnesota Statutes 1961, Section 291.09, is amended to read:

291.09. **Determination of tax.** Except as otherwise herein provided, the tax upon any transfers by a non-resident of real property within this state or personal property having a situs within this state shall be determined by the probate court in all cases where the estate is probated in this state. In all cases where the tax is not determined by the probate court it shall be determined by the commissioner of taxation.

*Subdivision 1. (a) Every representative (at the time of filing with the probate court a verified inventory and appraisal of the probate assets of the decedent as prescribed in chapter 525 shall submit to the court a true and complete schedule of non-probate assets, on a form prescribed by the commissioner.*

*(b) Every representative shall file with the commissioner, on a form prescribed by the commissioner, an inheritance tax return showing the values contained in the inventory and appraisal*

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and schedule of non-probate assets and deductions and exemptions claimed by the representative, and containing a computation of the inheritance tax due under the provisions of this chapter. The representative shall file a true copy of such return with the probate court.

(c) Except as hereinafter provided, such inheritance tax return shall be conclusive as to the valuation of both probate and non-probate assets and as to all other matters relating to the taxability of probate assets, unless, within 90 days after such filing, the commissioner, the representative or any other person from whom any portion of such tax is due has filed with the probate court written objections to any such matter reflected in such return. Upon the filing of such objections, the probate court shall fix the time and place of a hearing thereon and shall give 30 days mailed notice thereof to the commissioner, to the representative and to each person from whom any portion of such tax is due. At such hearing the court shall hear such objections and shall make its order determining the matter so objected to.

(d) If the probate court upon a hearing on a representative's account allows a deduction different in amount than that used in the determination of the inheritance tax return as provided in the preceding subparagraph (b), or if the probate court in its decree assigning the property:

- (i) assigns such property to a person or persons other than the person or persons reported on the inheritance tax return; or
- (ii) distributes such property to the person or persons reported on the inheritance tax return in amounts or shares different than those reported thereon; or
- (iii) determines the relationship between the decedent and any person to whom property is assigned as other than the relationship reported on the inheritance tax return,

the commissioner not later than 90 days after receipt of a copy of the court's order or decree adjusting, settling or allowing the account or assigning the property may issue an order adjusting the computation of the inheritance tax due in accordance therewith.

(e) The probate court may waive the filing of any inheritance tax return required by subparagraph (b) where it appears that no inheritance tax is due, but such waiver shall not limit the right of the commissioner to file a return pursuant to subdivision 3 hereof.

Subdivision 2. (a) When no representative has been appointed by the probate court, every person from whom a tax is

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*due under the provisions of this chapter shall file with the commissioner, on forms prescribed by the commissioner, a schedule of non-probate assets listing the transfers on account of which such tax is due and an inheritance tax return showing the values contained in such schedule and all claimed deductions and exemptions and containing a computation of such tax.*

*(b) When no representative has been appointed by the probate court, and in cases where a representative has been appointed, as to matters reflected in the inheritance tax return which are not to be determined as prescribed in subdivision 1, subparagraph (c) hereof, the tax as computed on the return shall be the inheritance tax imposed by this chapter upon the transfers reported therein unless within 90 days after such filing, the commissioner or any other person from whom any portion of such tax is due mails a written notice to the commissioner, to the person so filing such return, and to each person from whom any part of such tax is due, objecting to such matters and fixing the time and place of a hearing thereon at least 30 days subsequent to the date of such notice. At such hearing the commissioner shall hear such objections, and within 30 days after such hearing, shall make his order determining the inheritance tax imposed by this chapter.*

*(c) The filing of an inheritance tax return shall not be required under the preceding subparagraph (a) where the transfers resulting in the tax were included in a schedule of non-probate assets and an inheritance tax return previously filed with the commissioner.*

*Subdivision 3. Where any inheritance tax return required by the preceding provisions of this section has not been filed within 18 months after the decedent's death, the commissioner may make and file such return including a computation of the tax resulting from the transfers therein reported and at the time of such filing shall mail copies of such return to the representative, if any, and to each person from whom any portion of such tax is due. Such return may be objected to and a hearing held on such objections in the manner elsewhere provided in this section where the return is not made by the commissioner.*

*Subdivision 4. In all cases where a federal estate tax return is filed, a true copy thereof shall be filed with the commissioner at the time of filing the original and likewise any changes, corrections, assessments of deficiency or amendments made therein after filing shall be promptly reported to the commissioner. The probate court shall file, with the commissioner, promptly upon their entry, true copies of all orders adjusting, settling or allowing any representative's intermediate, final or other account and all decrees of descent or*

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*partial or final distribution and all interlocutory decrees entered by it in any case where it has not waived the filing of an inheritance tax return pursuant to this section. Every representative at the time of filing any intermediate, final or other account with the probate court shall file a true copy thereof with the commissioner unless the filing of an inheritance tax return has been waived.*

Subd. 5. *Notwithstanding other provisions of this chapter, when agreed in writing between the commissioner and the representative, values for purposes of the inheritance tax on both probate and non-probate assets shall be the same as those finally determined for purposes of the federal estate tax on a decedent's estate.*

Subd. 6. *Except as otherwise provided, the tax as determined and adjusted by the commissioner under the provisions of this chapter shall be the tax imposed thereunder.*

Section 5. Minnesota Statutes 1961, Section 291.11, Subdivision 1, is amended to read:

**291.11 Time effective.** Subdivision 1. **Upon death; time of assessment.** (a) All taxes imposed by this chapter shall take effect at and upon the death of the person from whom the transfer is made and shall be due and payable at the expiration of 18 months from such death, except as otherwise provided in this chapter.

(b) *Except as otherwise provided in this chapter, in the case where probate proceedings are had, the tax imposed by this chapter shall be assessed not later than 18 months after the probate court has furnished the commissioner of taxation with the inheritance record and order determining tax.*

(c) *Except as otherwise provided in this chapter, in the case where there are no assets subject to the jurisdiction of the probate court, the tax imposed by this chapter shall be assessed not later than three years after an inheritance tax return has been filed in the form prescribed by the commissioner of taxation.*

(d) (b) (A) *False return*—in the case of a false or fraudulent return with the intent to evade tax, the *any additional tax resulting therefrom* may be assessed at any time.

(B) *No return*—in the case of failure to file a return, the tax may be assessed at any time.

(C) *Omissions*—in the case where there is omitted from the estate items subject to tax under this chapter the tax on such omitted items may be assessed at any time.

*In determining the items omitted, there shall not be taken*

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into account any item which has been disclosed in the return or in a statement attached to the return in a manner adequate to apprise the commissioner of taxation of the nature and amount of such item.

(e) (c) Where, before the expiration of the time prescribed in (b) and (e) *this chapter* for the assessment *determination or adjustment* of the tax, the commissioner of taxation and the taxpayer shall consent in writing to the extension of time for the assessment of the tax; *such determination or adjustment* the tax may be assessed *determined* at any time prior to the expiration agreed upon; *and in the manner agreed upon*. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(f) If, prior to the expiration of the period of limitations prescribed in section 291.21, subdivisions 3 and 4; and in section 291.48, subdivisions 1 and 2; the estate returnable to the United States treasury department under present federal law is changed or corrected by the commissioner of internal revenue, the taxpayer or a proper representative of the taxpayer shall report such changed or corrected estate and shall concede the accuracy of such determination or state wherein it is erroneous. Any taxpayer filing an amended return with the United States treasury department shall also file within 90 days thereafter a copy of such amended return with the commissioner of taxation.

(g) Failure to report such changed or corrected federal estate or to file a copy of such amended federal return, as set forth in clause (f) above and within the time stated; shall suspend the running of the period of limitations until such report or copy has been furnished to the commissioner of taxation.

(h) (d) The estate tax prescribed in section 291.34, notwithstanding the period of limitations prescribed for *determination of the inheritance tax* in clauses (b) and (e) above; *this chapter* shall be assessed *determined by the commissioner* not later than 90 days following the filing of the Minnesota estate tax return with the commissioner of taxation, together with a copy of the federal deficiency assessment *audit report* or the closing letter accepting the federal return as originally filed.

(i) (A) In the case where the probate court has furnished the commissioner of taxation with the inheritance tax record and order determining tax at a date on or subsequent to January 1, 1956; then, for the purpose of Laws 1961, Chapter 492 such inheritance tax record and order determining tax shall be deemed to have been fur-

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nished to the commissioner of taxation on the effective date of Laws 1961, Chapter 492.

(B) In the case where an inheritance tax return has been filed on or subsequent to January 1, 1956, in accordance with clause (c) of this section, then, for the purposes of Laws 1961, Chapter 492 such return shall be deemed to have been filed with the commissioner of taxation on the effective date of Laws 1961, Chapter 492.

Section 6. Minnesota Statutes 1961, Section 291.12, is amended to read:

291.12 **Collection of tax.** Subdivision 1. Any administrator, executor or trustee having in charge or in trust any property for distribution embraced in or belonging to any inheritance, devise, bequest, legacy or gift, subject to the tax thereon as imposed by this chapter, shall deduct the tax therefrom, before paying or distributing the same. If such property be not in money, he shall collect the tax on such inheritance, devise, bequest, legacy, or gift upon the appraised value thereof, from the person entitled thereto. He shall not deliver, or be compelled to deliver, any property embraced in any inheritance, devise, bequest, legacy or gift, subject to tax under this chapter, to any person until he shall have collected the tax thereon. All taxes so collected, together with interest thereon, if any, shall be paid to the county treasurer as herein provided, and no administrator, executor or trustee shall be entitled to a discharge of his duties and liabilities until such tax is paid.

Subd. 2. Every representative shall, at the time of filing the inventory as required by law, or, if no inventory is filed, the petitioner shall at the time of filing the petition for decree of descent, petition for summary distribution, or other document initiating the proceedings, file with the probate court a return under oath, in such form as may be prescribed by the commissioner of taxation, of all property within his knowledge and the value thereof at the date of the decedent's death, (a) which the decedent has at any time transferred and which is or may be subject to an inheritance tax, (b) which the decedent held in joint tenancy, (c) which was subject to the exercise of a power of appointment by the decedent. The return shall also contain a list of all policies of insurance on the life of the decedent payable to named beneficiaries, and the amounts thereof.

Subd. 3. In all cases where a federal estate tax return is filed, a true copy thereof shall be filed with the commissioner of taxation at the time of filing the original.

*Subdivision 1. Any representative or trustee who has in his possession or under his control, property, the transfer of which is sub-*

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*ject to any tax imposed by this chapter and from which such tax may lawfully be paid by him, shall either deduct the amount of tax due or shall collect from the person entitled to such property, the amount of tax due, together with any accrued interest thereon, before completing the transfer of such property or making delivery thereof. He shall pay to the commissioner all taxes and interest so deducted or collected.*

*Subd. 2. Any representative or trustee having in his possession or under his control any property to which a person, from whom a tax is known by such representative or trustee to be due under the provisions of this chapter, is entitled, shall be personally liable for the payment of such tax and any interest accrued, to the extent of the value of such property; provided, however, that there shall be no such liability if such property cannot be lawfully used by him for the payment of such taxes or interest.*

*Subd. 3. No representative or trustee shall be required to transfer or deliver any property in his possession or under his control unless all taxes and interest due from the person entitled thereto under the provisions of this chapter have either been deducted or collected by him or paid by the transferee to the commissioner.*

*Subd. 4. No representative or trustee shall be discharged from the duties of his office by any Court having jurisdiction over him if he fails to comply with the provisions of Subdivisions 1 and 2 of this Section.*

Section 7. Minnesota Statutes 1961, Section 291.13 is amended to read:

**291.13 Taxes to be paid to commissioner of taxation.** Subdivision 1. *The All tax taxes* imposed by this chapter upon inheritances, 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:

*Subd. 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 transmit it to the probate court having jurisdiction and notify the representative or his attorney of its transmittal whereupon it shall be a proper voucher in the settlement of the accounts of the executor, administrator or trustee, or other person paying such tax. The county treasurer, upon receiving written notice from the commissioner of taxation that the receipt has been*

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countersigned and delivered; shall transmit the amount so paid to the commissioner of taxation:

Subd. 3 2. If the tax is paid directly to the *The* commissioner of taxation he shall, after verifying the correctness of the amount so paid; issue his receipt *for any payment of tax under this chapter to the* 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:

Subd. 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 chapter, until he shall produce a receipt, countersigned or issued by the commissioner of taxation; or a certified copy of the same:

Subd. 5 3. All taxes paid under the provisions of this chapter 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.

Section 8. Minnesota Statutes 1961, Section 291.14, is amended to read:

291.14 **Inheritance tax a lien upon property.** Every tax imposed by this chapter shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy, or gift until paid, and the person to whom such property is transferred and the administrators, executors, and trustees of every estate embracing such property shall be personally liable for such tax, until its payment, to the extent of the value of such property. No such lien shall be enforced against real property, in any case, unless the state shall assert the same by filing a statement of its lien in the office of the register of deeds in the county wherein such real estate may be situated, within ten years after the date of any final decree of distribution which may be entered in the estate involved.

Section 9. Minnesota Statutes 1961, Section 291.18, is amended to read:

291.18 **Overpayment of tax; refunds; appropriation.** When any tax imposed by this chapter shall have been paid or collected, other than by the methods provided in section 291.27 or in section 271.06; in excess of the amount legally due, the person or corporation paying the same shall be entitled to a refundment of the amount of such taxes overpaid, together with interest thereon at the rate of six *four* percent per annum from the date of payment, in the manner provided by section 291.32; provided that all applications for such refundment shall be made within two years from the date of the

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order of the commissioner of taxation or the probate court determining and assessing such tax or within two years from the date of the payment of the tax, whichever date is later: *final determination or adjustment of any part of such tax by the taxpayer and the commissioner, the probate court or the Board of Tax Appeals, as the case may be.*

There is hereby appropriated to the persons entitled to such refund, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

Section 10. Minnesota Statutes 1961, Section 291.21, is amended to read:

**291.21 Commissioner of taxation to receive list of property.**  
Subdivision 1. ~~The county treasurer of the several counties, and the~~ *The* commissioner of taxation, shall have the same rights to apply for letters of administration as are conferred upon creditors by law.

Subd. 2. In all estates where it appears from the inventory, appraisal and return that an inheritance tax may be imposed; *the due, every* representative shall, upon the filing thereof, under the direction of the court, deliver a copy of each, and of the petition, and will, if any, to the commissioner of taxation; and upon filing the final account shall deliver a copy thereof to the commissioner of taxation. *with the probate court of an inventory, appraisal, and schedule of non-probate assets as required under section 291.09, shall file copies thereof and of the petition, and will, if any, with the commissioner.*

Subd. 3. The values shown by such inventory, appraisal and return shall be deemed conclusive and final in the computation of inheritance taxes unless within 90 days after the filing of copies thereof with the commissioner of taxation as required by subdivision 2 of this section, the representative of the estate, or the commissioner of taxation, or any party in interest, shall file objections thereto with the probate court and; if he is not the party objecting, with the commissioner of taxation, as to any specific item or items therein. If such objections are filed the probate court shall fix the time and place for the determination of the tax and shall give 30 days written notice thereof to the commissioner of taxation and to the representative of the estate and to any party who has filed objections, and upon such hearing shall determine the values of the items objected to and determine the tax. If no objections are filed the court shall make its order determining the tax on the values set forth in the appraisal and the return as herein provided.

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Subd. 4. 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.

Section 11. Minnesota Statutes 1961, Section 291.22, is amended to read:

291.22 **Appraisers.** The probate court may, in any matter connection with any hearing before it mentioned in section ~~291.21~~ 291.09, either upon its own motion or upon the application of any interested party, including county treasurers and or the commissioner of taxation, and as often as and when occasion requires, appoint one or more impartial and disinterested persons as appraisers to appraise the full and true value of the any property embraced in any inheritance, devise, bequest, or legacy, subject to the payment of any tax imposed by this chapter: *the value of which is in question at such hearing.*

Section 12. Minnesota Statutes 1961, Section 291.24, is amended to read:

291.24 **Notice of appraisal; powers and duties of appraisers.** The appraisers appointed under the provisions of this chapter *section 291.22* shall forthwith give notice, by mail, to all persons known to have a claim or interest in the inheritance, devise, bequest, legacy, or gift to be appraised, including the county treasurer, commissioner of taxation, *all persons to whom notice of such hearing should have been given* and such persons as the probate court may by order direct, of the time and place when they will make such appraisal. They shall, at such time and place appraise the same at its full and true value, as herein prescribed, and for that purpose the probate court appointing the appraisers is authorized and empowered to issue subpoenas and compel the attendance of witnesses before such appraisers at the place fixed by the appraisers as the place where they will meet to hear such testimony and make such appraisal. The appraisers may administer oaths or affirmations to such witnesses and require them to testify concerning any and all property owned by the decedent and the true value thereof and any disposition thereof

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which may have been made by the decedent during his lifetime or otherwise. *the true value of every right and interest of a decedent in property, real or personal, the value of which is in question at such hearing.* The appraisers shall make a report in writing setting forth their appraisal of the *such* property embraced in each legacy, inheritance, devise, or transfer, including any transfer made in contemplation of death, with the testimony of the witnesses examined and such other facts in relation to the property and its appraisal as may be requested by the commissioner of taxation, or directed by the order of the probate court. Such report shall be in writing and one copy thereof shall be filed in the probate court, and the others shall be mailed to the commissioner of taxation at his office in St. Paul, Minnesota.

Every appraiser shall be entitled to compensation at the rate of \$3 per day, and in extraordinary cases such additional sum per day, not exceeding \$7 altogether, as may be allowed by the probate judge, for each day actually and necessarily employed in such appraisal, and his actual and necessary traveling expenses, and such witnesses and the officer or person serving any such subpoena shall be entitled to the same fees as are allowed witnesses or sheriffs for similar services in courts of record. The compensation and fees claimed by any person for services performed under this chapter shall be approved by the judge of probate, who shall certify the amount thereof to the state auditor, who shall examine the same; and, if found correct, he shall draw his warrant upon the state treasurer for the amount thereof in favor of the person entitled thereto.

Such warrants shall be paid out of the moneys appropriated for the payment of the expenses of inheritance tax collections.

Section 13. Minnesota Statutes 1961, Section 291.25, is amended to read:

291.25 **Report; powers of court.** The report of the appraisers *appointed pursuant to Section 291.22* shall be filed with the probate court, *and a copy thereof with the commissioner,* 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 full and true value of all ~~such estate and the amount of tax to which the same is liable;~~ or the probate court may so determine the full and true value of all such estates and the amount of tax to which the same are liable ~~without appointing appraisers.~~ *property the valuation of which is in question at such hearing and make its order determining matters affecting the inheritance tax as provided in Section 291.09.*

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Section 14. Minnesota Statutes 1961, Section 291.26, is amended to read:

**291.26 Probate court, reports.** ~~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 the 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 the probate court by the inheritance tax law.~~ *this chapter.*

Section 15. Minnesota Statutes 1961, Section 291.27, is amended to read:

**291.27 Unpaid tax; omitted property.** If any tax is due and unpaid under the provisions of this chapter, the representative of the estate, the county attorney of the county in which an estate is probated, ~~or the attorney general or the commissioner~~ may apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three 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 application, and whenever it shall appear to him that any such tax accruing under this chapter 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 chapter in the probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax.

Any tax due and unpaid under the provisions of this chapter may be enforced and collected by action in a court of general jurisdiction by the representative of any estate, or by action, in the name of the state, brought by the attorney general, ~~or the county attorney or the commissioner.~~

Any property which for any cause is omitted from an appraisal, inventory, or ~~inheritance tax return,~~ *schedule of non-probate assets* so that its value is not taken into consideration in the determination of the inheritance taxes, may be subsequently taxed against

**Changes or additions indicated by italics, deletions by strikeout.**

the persons receiving the same, or any part thereof, to the same effect as if included in the original appraisal, inventory, *schedule of non-probate assets*, inheritance tax return and determination, except that any representative of an estate discharged from his trust in the meantime shall not be liable for the payment of such tax. When any property has been thus omitted in the determination of an inheritance tax, such taxes thereon may be determined and recovered in a civil action brought by the attorney general; *or the commissioner*, in the name of the state, in any court of general jurisdiction, or may be prosecuted to collection by citation and subsequent proceedings in the probate court wherein the estate was administered.

Section 16. Minnesota Statutes 1961, Section 291.29, Subdivision 4, is amended to read:

Subd. 4. Each judge of probate, ~~on determining a tax, on settling and allowing the final account and issuing the decree of descent,~~ shall immediately make a report to the commissioner of ~~taxation~~ upon the forms furnished by the commissioner of ~~taxation~~ containing all of the data and matters required to be entered in such book.

Section 17. Minnesota Statutes 1961, Section 291.30, is amended to read:

**291.30 Compounding the tax.** The commissioner of ~~taxation~~; by and with the written consent and approval of the attorney general; in case of a decedent whose estate has not been probated in this state; and by and with the written consent and approval of the probate judge in the case of a decedent whose estate has been probated in this state; is hereby authorized and empowered to enter into an agreement with the owners *or transferees* of any property or the representatives of any estate or trust 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, devisees, or other beneficiaries 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 such owners, *transferees* or representatives on account thereof upon payment of the taxes provided for in such composition, *which* shall be conclusive in favor of such owners, *transferees* or representatives as against the interest of any such legatee, devisee, or other beneficiary *or transferee* as may possess either present rights of enjoyment, or fixed, absolute or indefeasible; rights of future enjoyment or as would possess such rights in the

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event of the immediate termination of any particular estate; ~~unless~~ *provided that* he consent thereto either personally or by duly authorized attorney, when competent, or by guardian. Composition agreements made, effected and entered into under the provisions of this section shall be executed in ~~triplicate~~; ~~and so many original counterparts as to permit the following disposition thereof:~~ one copy thereof filed in the probate court of the county ~~in which the tax is to be paid~~; ~~in which the estate is being probated, unless there is no probate proceeding;~~ one copy ~~in the office of~~ filed with the commissioner, ~~of taxation~~ and one copy shall be delivered to ~~the each persons person paying the tax thereunder.~~ *from whom an inheritance tax is due.*

The commissioner ~~of taxation~~ shall not consent to the assignment or delivery of any property embraced in any legacy, devise, or transfer from a non-resident decedent to a nonresident trustee thereof under the provisions of Minnesota Statutes ~~1941~~, *1961*, Section 291.19, 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 Minnesota Statutes ~~1941~~ *1961*, Sections 574.01, 574.12, and 574.15, shall apply to the execution of said bond and the qualification of the surety or sureties thereon.

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 non-resident 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 non-resident decedents.

**Changes or additions indicated by italics; deletions by ~~strikeout~~.**

Section 18. Minnesota Statutes 1961, Section 291.32, Subdivision 1 is amended to read:

**291.32 Refund of tax; application; examination and order; refundment.** Subdivision 1. Whenever, under the provisions of ~~section 291.14 or section 291.18~~, *this chapter* 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 entitled him to such return and the amount he is entitled to have returned. Upon the filing of such application, the commissioner of taxation shall examine the same and shall make a written order thereon denying or allowing the application in whole or in part and shall mail a copy of such order by ~~registered~~ *certified* mail to the applicant at the address stated on the application. If such application is allowed in whole or in part, the commissioner of taxation ~~with the approval of the attorney general~~ 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.

Section 19. Minnesota Statutes 1961, Section 291.33, is amended to read:

**291.33 Payments to counties.** On or before the first of November in each year the commissioner of taxation shall determine the amount of inheritance tax and interest collected thereon which has been paid in to the commissioner of taxation ~~by the county treasurers of~~ *from* the several counties of this state, from estates of ~~residents in which probate proceedings have been had~~, during the preceding fiscal year ending June 30, and the amount returned under the provisions of Minnesota Statutes ~~1944~~ 1961, Section 291.32, as amended, which was originally paid to the ~~county treasurer, commissioner in the case of estates in which probate proceedings have been had~~, and shall cause to be paid to each county from which any tax shall have been received during the fiscal year ending June 30 next preceding, 20 percent of the amount of the inheritance tax money and interest collected thereon so received from each such county respectively, less 20 percent of any such tax and interest thereon which has been returned under the provisions of Minnesota Statutes ~~1944~~, 1961, section 291.32, as amended, and which was

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originally paid to the ~~county treasurer of commissioner~~ from 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.

Section 20. Minnesota Statutes 1961, Section 291.34, is amended to read:

291.34 **Estate tax.** There shall be assessed by the ~~probate court commissioner~~, in addition to the inheritance tax as now provided by sections 291.01 to 291.33, an estate tax upon all estates which are subject to taxation under the present federal revenue act. The tax is hereby imposed upon the transfer of the estate of every person who, at the time of his death, was a resident of this state. The amount of the tax shall be computed by the commissioner of taxation and his computation shall be sent to the probate court of the county of deceased's residence and shall be, by the probate court, assessed as an additional amount of inheritance tax, as fixed in accordance with the provisions of sections 291.34 to 291.40; by the probate court. In the event that the estate of the deceased is not probated, the tax shall be determined and computed by the commissioner of taxation. The amount of the tax so assessed shall be the amount by which the maximum credit which the federal government will allow as a credit for state death taxes under the federal estate tax law shall exceed the aggregate amount of all estate, inheritance, legacy, and succession taxes actually paid to the several states of the United States in respect to any property owned by such decedent, or subject to such taxes as a part of or in connection with his estate.

Section 21. Minnesota Statutes 1961, Section 291.37, is amended to read:

291.37 **Intent.** It is hereby declared to be the intent and purpose of sections 291.34 to 291.40 to obtain for this state the benefit of the *maximum* credit allowed under the provisions of Title III, Section 301, Subsection (b) of the federal revenue act of 1926, for state death taxes under the federal estate tax law to the extent that this state may be entitled by the provisions of sections 291.34 to 291.40, by imposing additional taxes, and the same shall be liberally construed to effect this purpose. The commissioner of taxation may make such regulations relative to the assessment and the collection of the tax provided by sections 291.34 to 291.40, not inconsistent with law, as may be necessary to carry out this intent.

Section 22. Minnesota Statutes 1961, Section 525.481, is amended to read:

**Changes or additions indicated by italics, deletions by ~~strikeout~~.**

525.481. **Hearing and decree.** Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given pursuant to section 525.83, except as provided in sections 525.304, 525.48 and 525.51. Unless otherwise ordered, the representative shall, and other persons may, be examined relative to the account and the distribution of the estate. If all taxes payable by the estate have been paid so far as there are funds to pay them and the account is correct, it shall be settled and allowed; if incorrect, it shall be corrected and then settled and allowed.

Upon such settlement and allowance the court shall determine the persons entitled to the estate and assign the same to them by its decree. The decree shall name the heirs and the distributees, *state their relationship to the decedent*, describe the property and state the proportion or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all of the heirs be ascertained. No final decree shall be entered until ~~after the determination and payment of inheritance taxes except as provided in section 525.84;~~ *all inheritance taxes for the payment of which the representative is liable as shown by the Inheritance Tax Return provided for in Section 291.09 have been paid. If the Commissioner of Taxation shall have filed objections to the Inheritance Tax Return as provided in Section 291.09, no final decree shall be entered until such objections have been heard and determined unless the court determines that the collection of additional inheritance taxes for which the representative is liable will not be jeopardized. The court shall have the power in its decree to waive the lien of inheritance taxes on the property distributed and either the probate court or the Commissioner of Taxation shall have the power to issue certificates waiving such lien or acknowledging payment of all such taxes and discharging the lien at any time.*

If all of the creditors have consented, in writing, the court, with or without notice, may assign the estate, if insolvent, without conversion thereof into money, to such creditors in the proportions to which each is entitled.

If any liquidated demand for money arising on contract or if any unsatisfied judgment for the payment of money, whether or not unenforceable because of lapse of time or discharge in bankruptcy, exists in favor of decedent at the time of his death against an heir, legatee, or devisee, and not forgiven or otherwise specifically disposed of in the will, or if any judgment recovered by the representative against an heir, legatee, or devisee has not been paid during administration, the amount thereof shall be considered a part of the

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estate for purposes of distribution and taken by such heir, legatee, or devisee as a part of his share of the personalty.

If such amount exceeds such beneficiary's share of the personalty, the real property assigned to him shall be subjected in the decree to a lien in favor of the other heirs or beneficiaries in accordance with their respective shares.

If such demand or judgment became unenforceable prior to decedent's death, no interest after it became unenforceable shall be included and the total amount charged against such heirs, legatee, or devisee shall in no event exceed the value of his share of the estate. In the event of an escheat of part of the estate no such lien shall be imposed upon any other part of the estate in favor of the State of Minnesota.

Any beneficiary hereunder shall not be required to pay any inheritance tax and no inheritance tax shall be payable as to him on that part of the estate created by the set-off hereinbefore provided and inherited by the beneficiary, which the beneficiary would not otherwise have been required by law to pay because the demand so set off was unenforceable as to the beneficiary because of lapse of time or a discharge in bankruptcy.

Upon its own motion or upon the request of any party, without the determination or payment of inheritance taxes, the court may enter into an interlocutory decree, determining the persons entitled to the estate, naming the heirs and distributees, *stating their relationship to the decedent*, describing the property and stating the proportion or part thereof to which each is entitled. Such interlocutory decree shall be final as to the persons entitled to distribution, and as to the part or portion of the estate each is entitled to receive, but it shall not have the effect of assigning the estate to such persons.

Section 23. Minnesota Statutes 1961, Section 525.482, is amended to read:

**525.482 Partial distribution.** A partial distribution of an estate may be made before final settlement in the manner and upon the notice provided for final distribution. No decree of partial distribution shall be entered until after the determination and payment of inheritance taxes ~~on~~ *sufficient to cover* the property thereby distributed. Such decree shall be final as to the persons entitled to such distribution and as to their proportions, and except where such decree includes only specific bequests or devises, as to the persons entitled to, and their proportions of the whole estate. No distribution shall be made until after the expiration of the time limited for the filing of claims, nor until a bond *satisfactory to the court* has been

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filed to secure the payment of unpaid claims and bequests, and the unpaid expenses of the administration, funeral, and last illness, and taxes.

Section 24. Minnesota Statutes 1961, Section 525.71, is amended to read:

**525.71. Appealable orders.** An appeal to the district court may be taken from any of the following orders, judgments, and decrees of the probate court:

(1) An order admitting, or refusing to admit, a will to probate;

(2) An order appointing, or refusing to appoint, or removing, or refusing to remove, a representative other than a special administrator or special guardian;

(3) An order authorizing, or refusing to authorize, the sale, mortgage, or lease of real estate, or confirming, or refusing to confirm, the sale or lease of real estate;

(4) An order directing, or refusing to direct, a conveyance or lease of real estate under contract;

(5) An order permitting, or refusing to permit, the filing of a claim, or allowing or disallowing a claim or counterclaim, in whole or in part, when the amount in controversy exceeds \$100;

(6) An order setting apart, or refusing to set apart, property, or making, or refusing to make, an allowance for the spouse or children;

(7) An order determining, or refusing to determine, venue; an order transferring, or refusing to transfer, venue;

(8) An order directing, or refusing to direct, the payment of a bequest or distributive share when the amount in controversy exceeds \$100;

(9) An order allowing, or refusing to allow, an account of a representative or any part thereof when the amount in controversy exceeds \$100;

(10) An order adjudging a person in contempt;

(11) An order vacating a previous appealable order, judgment, or decree; an order refusing to vacate a previous appealable order, judgment, or decree alleged to have been procured by fraud or misrepresentation, or through surprise or excusable inadvertence or neglect;

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- (12) A judgment or decree of partial or final distribution;
- (13) An interlocutory decree entered pursuant to section 525.481;
- (14) An order granting or denying restoration to capacity;
- (15) An order made pursuant to section 525.49 directing, or refusing to direct, the payment of representative's fees or attorneys' fees, and in such case the representative and the attorney shall each be deemed an aggrieved party and entitled to take such appeal;
- (16) An order, ~~determining, judgment, or decree relating to or affecting inheritance taxes~~ or refusing to ~~determine, amend, modify, or vacate such an order, judgment, or decree; inheritance taxes upon a hearing on a prayer for reassessment and redetermination;~~ but nothing herein contained shall abridge the right of direct review by the supreme court;
- (17) An order extending the time for the settlement of the estate beyond five years from the date of the appointment of the representative.

Section 25. Minnesota Statutes 1961, Section 271.09, Subdivision 1, is amended to read:

271.09 **Appeals and reviews.** Subdivision 1. **Exclusive remedy.** ~~No right of appeal in inheritance cases; appeal an exclusive remedy. The right of appeal to the board herein provided shall not apply in the determination of inheritance taxes in cases wherein such taxes are now determinable by the probate courts, in which cases proceedings shall be had as otherwise provided by law; subject to the substitution of the commissioner of taxation for the attorney general, as herein provided. In all other cases, except *Except* as otherwise provided herein, the right of appeal herein provided shall be the exclusive remedy for reviewing the action of the commissioner of taxation respecting any tax, assessment, or other obligation. Upon any appeal taken by a taxpayer, and upon any other appeal when the taxpayer shall so agree in writing filed with the clerk of the board the decision of the board of tax appeals, or the decision of the supreme court upon review thereof, as the case may be, shall be final and conclusive upon all parties to the proceedings as to all matters at issue determined by such decision. In all cases the decision of the board upon appeal, or of the supreme court upon review, as the case may be, shall stand in lieu of the order of the commissioner from which the appeal was taken, and shall have like force and effect, subject to the provisions hereof.~~

Section 26. Minnesota Statutes 1961, Chapter 291 is amended by adding a Section to read:

**Changes or additions indicated by *italics*, deletions by ~~strikeout~~.**

**[291.005] [Definitions.]** *Unless the context otherwise clearly requires, the following terms used in this chapter shall have the following meanings:*

(1) *“Representative” means and includes all executors of the will of a decedent and all administrators of any description, whether general or special, of a decedent’s estate to whom letters are issued by a probate court of this state.*

(2) *“Probate Assets” means and includes all property of a decedent required by Chapter 525 to be listed on a representative’s inventory in a case where administration is to be had in a probate court of this state.*

(3) *“Non-Probate Assets” means and includes all property of every kind transferred from a decedent or at or by reason of the decedent’s death which is subject to the inheritance tax imposed by this chapter (without regard to deductions or exemptions) and which does not consist of probate assets.*

(4) *“Commissioner” means and refers to the Commissioner of Taxation of this state or any person or body within the state Department of Taxation to whom he may have delegated his functions under this chapter.*

**Section 27. Time effective.** *The provisions of this act shall become effective on January 1, 1964.*

Approved May 16, 1963.

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CHAPTER 741—S. F. No. 983

[Not Coded]

*An act relating to the state employees retirement association; providing annuities to certain legislative employees.*

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

**Section 1. State employees retirement association; special benefits.** Notwithstanding the provisions of any law to the contrary, any person who, subsequent to December 31, 1962, was entitled to receive an annuity from the state employees retirement association or had filed an application for retirement but who subsequently withdrew such application and while on authorized leave of absence is employed by the legislature or any branch thereof during any regular or special session, shall, during such employment, if such

**Changes or additions indicated by italics, deletions by ~~strikeout~~.**