

*class, shall be finally completed before the first Monday in August. All real and personal property shall be assessed as of the first day of May in such year except as provided in section 70.13. \* \* \**

SECTION 2. This act shall take effect upon passage and publication.

Approved September 3, 1929.

No. 717, A.]

[Published September 6, 1929.

### CHAPTER 462.

AN ACT to amend subsections (3) and (7) of section 72.01, subsection (1) of section 72.04, subsection (2) of section 72.05, subsection (3) of section 72.08, subsection (3) of section 72.12, subsections (8) and (10) of section 72.15, subsections (1) and (3) of section 72.17 and sections 72.19 and 72.24; and to create subsections (8) and (9) of section 72.18 of the statutes, relating to the inheritance tax.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Subsections (3) and (7) of section 72.01, subsection (1) of section 72.04, subsection (2) of section 72.05, subsection (3) of section 72.08, subsection (3) of section 72.12, subsections (8) and (10) of section 72.15, subsections (1) and (3) of section 72.17 and sections 72.19 and 72.24 of the statutes are amended to read: (72.01) (3) TRANSFERS IN CONTEMPLATION OF DEATH. When the transfer is of property, made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor or donor, or intended to take effect in possession or enjoyment at or after such death. \* \* \* *Every transfer by deed, grant, bargain, sale or gift, made within two years prior to the death of the grantor, vendor or donor, of a material part of his estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this section.*

(7) **INSURANCE PART OF ESTATE.** Insurance payable upon the death of any person shall be deemed a part of his estate for the purpose of the tax, and shall be taxable to the person or persons entitled thereto. *Such insurance, except that returnable for income taxation, shall be taxable irrespective of the fact that the insurance premiums on any policy may have been paid by some person other than the insured, if the payment of such premiums was made out of funds or property contributed by the insured for such payment, or out of the income accruing from a principal provided by the insured for such payment, whether such principal was donated in trust or otherwise.*

(72.04) (1) All property transferred to municipal corporations within the state for strictly county, town or municipal purposes, or to corporations of this state organized under its laws, solely for religious, *humane*, charitable or educational purposes, which shall use the property so transferred exclusively for the purposes of their organization, within the state, and all property transferred to banks or trust companies of this state, as trustees, in trust exclusively for public, religious, *humane*, charitable, educational or municipal purposes in this state, shall be exempt.

(72.05) (2) **PAYMENT; RECEIPT.** The tax shall be paid to the treasurer of the county in which the county court is situated having jurisdiction as herein provided; and said treasurer shall make \* \* \* *triplicate* receipts of such payment, one of which he shall immediately send to the state treasurer, whose duty it shall be to charge the county treasurer so receiving the tax, with the amount thereof, and \* \* \* *one* receipt shall be delivered to the executor, administrator, or trustee, whereupon it shall be a proper voucher in the settlement of his accounts, *and the remaining receipt he shall immediately send to the tax commission.*

(72.08) (3) **ADVANCE PAYMENT AND REFUND OF EXCESS.** Any person from whom any such tax is or may be due may make an estimate of and pay the same to the county treasurer \* \* \* at any time before the same is determined by the court, and shall thereupon be entitled to any discount and be relieved from any interest or penalty upon the amount so paid in the same manner as if the tax were then determined. *The county treasurer shall receipt therefor and shall file copies thereof in like manner as provided in section 72.05 (2).* Any excess so paid

shall be refunded to the person so paying or entitled thereto by such treasurer out of any inheritance tax money in his possession, or by the state treasurer when the county treasurer is without such money, upon filing with such treasurer a copy of the order fixing such tax, and attached thereto a certificate of the judge stating the amount of refund due.

(72.12) (3) CLAIMS AGAINST NONRESIDENT DECEDENTS. The county court of *Dane county* and the judge thereof \* \* \* shall have jurisdiction to hear and determine all questions relating to the determination and adjustment of inheritance taxes in the estates of nonresident decedents in which a tax appears to be due, and in which it does not otherwise appear necessary for regular administration to be had therein; *provided that in all cases in which a nonresident dies possessed of real or tangible personal property located within this state, the county court, and the judge thereof, of the county in which such property is located shall have concurrent jurisdiction with said Dane county court.* And in such estates the public administrator may be appointed as special administrator for the purposes of such adjustment. The county treasurer shall retain for the use of the county out of all such taxes paid and accounted for, only one per cent, and the balance, less the statutory expenses of collection and adjustment as fixed by the court, shall be paid into the state treasury; provided, however, that the minimum fee to which the county shall be entitled shall be three dollars in each case and that in no case shall the maximum fee exceed one hundred dollars; and the judge shall be paid two dollars for each such case.

(72.15) (8) ESTATES IN TRUST. When property is transferred in trust or otherwise, and the rights, interests or estates of the transferees are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon such transfer at the lowest rate which, on the happening of any of the said contingencies or conditions, would be possible under the provisions of sections 72.01 to 72.24, inclusive, and such tax so imposed shall be due and payable forthwith out of the property transferred; provided, however, that on the happening of any contingency or condition whereby the said property or any part thereof is transferred to a person or corporation, which under

the provisions of sections 72.01 to 72.24, inclusive, is required to pay a tax at a higher rate than the tax imposed, then such transferee shall pay the difference between the tax imposed and the tax at the higher rate, and the amount of such increased tax shall be enforced and collected as provided in sections 72.01 to 72.24, inclusive; *provided further, that if on the happening of any such contingency or condition the said property or any part thereof is transferred to persons or corporations, which under the provisions of sections 72.01 to 27.24, inclusive, would be required to pay less tax on the transfer than has been paid, a return shall be made to the person or persons entitled thereto of so much of the tax as will reduce the same to the amount which would have been assessed originally on such transfer, had the date of the happening of such condition or contingency and the persons ultimately receiving such property been known when the original assessment was made. Such return of tax shall be made in the manner provided in section 72.08.*

(10) **ORDER OF COUNTY COURT DETERMINING VALUE OF ESTATES AND LIABILITY TO TAX.** Upon the determination by the county court of the value of any estate which is taxable under the inheritance tax laws, and of the tax to which it is liable, an order shall be entered by the court determining the same, which order shall include a statement of (a) the date of death of the decedent, (b) the gross value of the real and personal property of such estate, stating the principal items thereof, (c) the deductions therefrom allowed by the court, (d) the names and relationship of the persons entitled to receive the same, with the amount received by each, (e) the rates and amounts of inheritance tax for which each such person is liable, and the total amount of tax to be paid, (f) a statement of the amount of interest or penalty due, if any. Such order shall be \* \* \* in the form prescribed by the tax commission. A copy of the same shall be delivered or mailed to the county treasurer, the state treasurer, and the tax commission, and no final judgment shall be entered in such estates until due proof is filed with the court that such copies have been so delivered or mailed.

(72.17) (1) **PUBLIC ADMINISTRATOR.** When no application for administration of the estate of any deceased person is made within sixty days after the demise of such person, and such estate appears to come under the provisions of the inheritance tax laws, or when administration has been completed without determining

the tax, or when no tax is due, and that fact has not been found by the court, or when any certificate of survivorship or of heirship has been applied for or issued under sections 230.47 or 237.09, or when any foreign will has been recorded as provided in section 238.19, the public administrator of the proper county, or any person interested in such estate, may make application for such special or general administration as may be necessary for the purpose of the adjustment and payment of such tax, if any, or if no tax is due, for an order determining that fact. In cases arising under this and the following subsection, the public administrator, if appointed such special administrator, shall be entitled in the discretion of the court to the fees allowed by law to administrators, or to other reasonable compensation \* \* \*. *In cases arising under this and the following subsection, the public administrator shall notify, by registered mail, the transferees of such estates in which it appears probable that a tax is due on any of such transfers and has not been determined. If proceedings to determine the tax are not instituted by such transferees within sixty days from the receipt of the registered notice of the public administrator, the public administrator shall institute such proceedings, and the costs and expenses of such special administration shall be paid by the estate in those cases in which a tax is found due; when no tax is found due, the costs and expenses of such special administration shall be paid by the county treasurer out of the inheritance tax funds in his hands, upon the certificate of the county judge.*

(3) DUTIES; FEES. It shall be the duty of the public administrator, under the general supervision of the tax commission and with the assistance of the district attorney, when required by the tax commission or county judge, to investigate the estates of deceased persons within his county and to appear for and act in behalf of the county and state in the county court in such estates as the court may in its discretion deem necessary, and for such services the public administrator shall be entitled to five per centum of the gross inheritance tax as determined in each such estate, to be paid by the county treasurer out of the inheritance tax funds upon an order of the county judge, provided that the minimum fee for each such estate shall not be less than three dollars, except that it shall not exceed the amount of such tax, and the maximum fee not more than twenty-five dollars; but in cases of unusual difficulty, in estates of resident decedents,

where the tax exceeds five hundred dollars, the county judge may allow the public administrator such additional compensation as he may deem just and reasonable. When the public administrator is not available, or is not qualified to act as such in any case, the court may call upon the district attorney or any attorney to act as public administrator in such case, and such acting public administrator shall be entitled to the fees above provided. *Before the county judge shall sign an order for the payment of fees to such public administrator, such public administrator shall render a report to the county judge setting forth the names of estates in which he appeared in court for and in behalf of the county and state, the amount of tax determined in each estate, and the fees to which such public administrator was entitled under this section. The county judge shall attach said report to his order allowing fees of the public administrator. The public administrator shall make such report quarterly.*

72.19 \* \* \* QUARTERLY REPORTS OF COUNTY TREASURER; TAX TO BE PAID TO STATE. Each county treasurer shall make a report under oath, to the state treasurer, on and prior to the fifth day of January, April, July, and October of each year, of all taxes received by him under the inheritance tax laws, up to the first day of each of said months, stating for what estate and by whom and when paid. *The county treasurer shall also set forth in such report the fees of the public administrator paid in each such estate, as well as expenses of collection.* The form of such report \* \* \* shall be prescribed by the state treasurer. He shall at the same time pay the state treasurer all the taxes received by him under the inheritance tax laws and not previously paid into the state treasury, and for all such taxes collected by him and not paid into the state treasury, within \* \* \* the times herein, required, he shall pay interest at the rate of ten per cent per annum.

72.24 DEFINITIONS. The word "estate" and "property" as used in sections 72.01 to 72.24, inclusive, shall be taken to mean the real and personal property or interest therein of the testator, intestate, grantor, bargainor, vendor or donor passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees, vendees or successors, and shall include all personal property within or without the state. The word "transfer," as used in sections 72.01 to 72.24, inclusive, shall be taken to include the passing of property or any interest therein, in possession or en-

joyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift or appointment in the manner herein prescribed. The word "decedent," as used in sections 72.01 to 72.24, inclusive, shall include the testator, intestate, grantor, bargainor, vendor or donor. The words "county treasurer," "public administrator" and "district attorney," as used in sections 72.01 to 72.24, inclusive, shall be taken to mean the treasurer, public administrator and district attorney of the county of the county court having jurisdiction as provided in section 72.12. *The words "the intestate laws of this state" as used in this chapter shall be taken to include a husband's right as tenant by the curtesy, the dower, homestead and other statutory rights of a widow, and any other rights acquired by contract in lieu of dower.*

SECTION 2. Two new subsections are added to section 72.18 of the statutes to read: (72.18) (8) Every corporation, partnership, association, individual, order or society authorized to transact life insurance business within this state, or whether authorized to transact such business or not, who shall pay any insurance or death benefit in excess of fifteen hundred dollars upon the death of a resident of this state, shall give notice of such payment to the tax commission within ten days from the date of such payment. Such notice shall be given on the forms prescribed by the tax commission, and such notice shall set forth such information as the tax commission shall prescribe.

(9) On the first day of every month the county judge of every county within the state shall notify the tax commission of the name and title of such proceedings as were instituted in the county court of such county within the prior month with respect to probate of wills, administration of estates, certificates of descent, and certificates of survivorship. Such notice shall be given on the forms prescribed by the tax commission, and such notice shall contain such information as the tax commission shall prescribe.

SECTION 3. This act shall take effect on September 1, 1929.

Approved September 3, 1929.