

Section 2. This act shall take effect immediately.

Act effective
immediately.

APPROVED—The 14th day of June, A. D. 1961.

DAVID L. LAWRENCE

No. 207

AN ACT

Providing for the imposition of certain taxes upon the transfer of property passing from a decedent who was a resident of the Commonwealth at the time of his death or presumed death and of property having its situs in the Commonwealth of a decedent who was a nonresident of the Commonwealth at the time of his death or presumed death; imposing additional taxes to equal Federal Estate Tax Credits; defining and taxing certain transfers made in contemplation of death, or to take effect in possession or enjoyment at or after death; defining as a transfer and taxing the right of survivorship in certain property as to which such right exists; defining and exempting from tax, transfers to certain persons or for certain purposes or of certain property; providing for the valuation of property and interests in property, the transfer of which is subject to tax; defining and allowing deductions from the value of property, the transfer of which is subject to tax; providing for the persons ultimately liable for taxes in the absence of a direction by the decedent to the contrary; providing for the reporting of transfers and collection of taxes; imposing penalties upon banks or other financial institutions for failure to give notice to the Department of Revenue of the death of a party to a joint or trust deposit therein and upon persons who fail to file tax returns and documents; providing for the compromise of taxes in the case of alleged nonresidents of the Commonwealth; making it unlawful for any person to make a false return or report; providing for liens upon real property, the transfer of which is subject to tax, and release thereof; authorizing the Secretary of Revenue to bring suits in other jurisdictions for the collection of taxes, and authorizing officials of other jurisdictions to bring suits in the Commonwealth for the collection of death taxes imposed by their jurisdictions; providing for the refund of taxes to which the Commonwealth is not rightfully or equitably entitled; providing for appeals and protests from the imposition of taxes; regulating the entry into safe deposit boxes of a decedent by certain persons, and providing penalties; dealing with the jurisdiction, powers and procedure of the orphans' court, Secretary of Revenue, Department of Revenue, Attorney General, and register of wills in matters relating to taxes; and citing certain acts for repeal.

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Inheritance and Estate Tax Act of 1961.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I.

PRELIMINARY PROVISIONS

Section 101. Short Title.—This act shall be known and may be cited as the “Inheritance and Estate Tax Act of 1961.”

Section 102. Definitions.—The following words, when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

(1) "Attorney General" includes all of his deputies and special assistants.

(2) "Adverse interest" means a substantial beneficial interest in the property transferred which might be adversely affected by the exercise or nonexercise of the power or right reserved or possessed by the transferor.

(3) "Children" includes adopted children, step-children, illegitimate children of the mother, and the children of the natural parent who are adopted by his spouse. It does not include illegitimate children of the father or adopted children in the natural family, except as above set forth.

(4) "Clerk" means the clerk of the orphans' court having jurisdiction.

(5) "Court" means the orphans' court of the county in which the decedent resided at the time of his death; or, in the case of a nonresident of the Commonwealth, the orphans' court of the county in which letters, if any, are granted; otherwise, the Orphans' Court of Dauphin County.

(6) "Date of death" means the date of actual death, except in the case of a presumed decedent, when it means the date found by the final decree to be the date of the absentee's presumed death: Provided, That for the purpose of determining interest and discount, it means the date upon which the court enters its final decree of presumptive death.

(7) "Death taxes" means inheritance, succession, transfer and estate taxes, and any other taxes levied against the estate of a decedent by reason of his death.

(8) "Decedent" or "transferor" means any person by or from whom a transfer is made, and includes any testator, intestate, grantor, settlor, bargainer, vendor, assignor, donor, joint tenant and insured.

(9) "Estate tax" means the tax imposed by Article IV., Parts B and C, of this act.

(10) "Fiduciary" means an executor, administrator, personal representative and trustee.

(11) "Financial institution" includes a bank, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a credit union, a savings bank and a national bank.

(12) "Inheritance tax" means the tax imposed by Article IV., Part A, of this act.

(13) "Lineal descendants" includes children and their descendants, adopted descendants and their descendants, stepchildren, illegitimate descendants of the mother and their descendants, and children and their descendants of the natural parent who are adopted by his spouse. It does not include descendants of stepchildren, illegitimate children of the father and their descendants, or adopted children and their descendants in the natural family, except as above set forth.

(14) "Notice" means written notice.

(15) "Person" includes a corporation, association, partnership and society (whether or not operated for profit) as well as a natural person, and includes such entities, whether or not acting in a fiduciary capacity.

(16) "Presumed decedent" means a person found to be presumptively dead under the provisions of Article XII. of the Fiduciaries Act of 1949.

(17) "Property" or "estate" includes the following:

(i) All real property and all tangible personal property of a resident decedent or transferor, having its situs in Pennsylvania;

(ii) All intangible personal property of a resident decedent or transferor;

(iii) All real property and all tangible personal property having its situs outside the Commonwealth, owned by a resident decedent, which the decedent had contracted to sell, provided the jurisdiction in which the property has its situs does not subject it to death tax;

(iv) All real property and all *tangible personal property of a nonresident decedent or transferor having its situs in Pennsylvania, including such property held in trust;

(v) A liquor license issued by the Commonwealth of Pennsylvania.

(18) "Register" means the register of wills having jurisdiction to grant letters testamentary or of administration in the estate of the decedent or transferor.

(19) "Resident" and "nonresident" means domiciliary and nondomiciliary of the Commonwealth of Pennsylvania, respectively, at the date of death.

(20) "Secretary of Revenue" includes all of his deputies.

(21) "Territory" includes the District of Columbia and all possessions of the United States.

(22) "Transfer" includes the passage of ownership of any property, or any interest therein or income therefrom, in possession or enjoyment, present or future, in trust or otherwise.

* "tangible" in original.

(23) "Transferee" means any person to whom a transfer is made, and includes legatees, devisees, heirs, next of kin, grantees, beneficiaries, vendees, assignees, donees, surviving joint tenants and insurance beneficiaries.

(24) "Value" means the price at which the property would be sold by a willing seller, not compelled to sell, to a willing buyer, not compelled to buy, both of whom have reasonable knowledge of the relevant facts.

Section 103. Effective Date.—This act shall take effect the first day of January, one thousand nine hundred sixty-two, and shall apply to—

- (1) The estates of all *decedents dying on or after that day;
- (2) Inter vivos transfers made by decedents dying on or after that day regardless of the date of the transfer.

The existing laws shall remain in full force and effect for the estates of all decedents dying before that day.

Section 104. Powers of Secretary of Revenue; Regulations.—The Secretary of Revenue shall have complete supervision of the making of appraisements, the allowance of deductions, and the assessment of tax, including, but not limited to, the power to regulate the actions of registers in the allowance and disallowance of deductions and assessment of tax. He shall have the power to adopt and enforce rules and regulations for the just administration of this act.

Section 105. Severability.—If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of this act, and the application of such provision to other persons or circumstances, shall not be affected thereby, and to this **end the provisions of this act are declared to be severable.

ARTICLE II.

TRANSFERS SUBJECT TO TAX

A. In General

Section 201. Imposition of Tax.—An inheritance tax for the use of the Commonwealth is hereby imposed upon every transfer subject to tax under this act at the rates hereinafter specified.

B. Transfers by Will or Intestacy

Section 211. Will or Intestacy; Resident.—All transfers of property, as defined in this act, by will or by the

* "decedents" in original.

** "and" in original.

intestate laws of the Commonwealth, from a resident of this Commonwealth, are subject to tax under this act.

Section 212. Will or Intestacy; Nonresident.—All transfers of property, as defined in this act, by will, by the intestate laws of the Commonwealth, or by the laws of succession of another jurisdiction from a nonresident, are subject to tax under this act.

Section 213. Presumed Decedent.—The transfer of property of a person determined by decree of a court of competent jurisdiction to be a presumed decedent is subject to tax under this act within the meaning of sections 211 and 212.

C. Inter Vivos Transfers

Section 221. Consideration; Quantum of Taxable Transfer.—

(a) Consideration. All transfers of property, specified in sections 222-226, which are made during his lifetime by a resident or a nonresident, to the extent that they are made without valuable and adequate consideration in money or money's worth at the time of transfer, are subject to tax under this act.

(b) Quantum of Taxable Transfer. When the decedent retained or reserved an interest or power with respect to only a part of the property transferred, in consequence of which a tax is imposed under sections 223-226, the amount of the taxable transfer hereunder is only that portion of the property so transferred which is subject to such retained or reserved interest or power.

Section 222. Contemplation of Death.—A transfer conforming to section 221 (a), and made in contemplation of the death of the transferor, is subject to tax under this act. A transfer shall not be deemed or held to have been made in contemplation of death if made more than two (2) years prior to the death of the transferor, but, unless shown to the contrary, shall be deemed to have been in contemplation of death if it is of a material part of the transferor's estate and is made within two (2) years prior to the death of the transferor.

A transfer is made in contemplation of death when the dominant or impelling motive, but not necessarily the sole motive of the transferor, was prompted by the thought of death, without which motive the transfer would not have been made. The term is not restricted to that expectancy of imminent death which actuates the mind of a person making a gift *causa mortis*.

Section 223. Deferred Possession and Enjoyment; Reservation of Reversionary Interest.—A transfer con-

forming to section 221 (a), (1) which takes effect in possession or enjoyment at or after the death of the transferor, and (2) under which the transferor has retained a reversionary interest in the property, the value of which interest immediately before the death of the transferor exceeds five (5) percent of the value of the property transferred, is subject to tax under this act. The term "reversionary interest" includes a possibility that property transferred may return to the transferor or his estate, or may be subject to a power of disposition by him, but such term does not include a possibility that the income alone from such property may return to him or become subject to a power of disposition by him.

Section 224. *Reservation of Life Interest.*—A transfer conforming to section 221 (a), and under which the transferor expressly or impliedly reserves for his life or any period which does not in fact end before his death, (1) the possession or enjoyment of, or the right to the income from, the property transferred, or (2) the right, either alone or in conjunction with any person not having an adverse interest, to designate the persons who shall *possess or enjoy the property transferred or the income therefrom, is subject to tax under this act.

Section 225. *Promise by Transferee.*—A transfer conforming to section 221 (a), and under which the transferee promises to make payments to, or for the benefit of, the transferor or to care for the transferor during the remainder of the transferor's life, is subject to tax under this act.

Section 226. *Revocable and Tentative Trusts.*—A transfer conforming to section 221 (a), and under which the transferor has, at his death, either in himself alone, or in conjunction with any person not having an adverse interest, a power to alter, amend or revoke the interest of the beneficiary, is subject to tax under this act. Similarly, the relinquishment of such a power in contemplation of death, within the meaning of section 222, is a transfer subject to tax.

D. Joint Tenancy

Section 241. *Joint Tenancy.*—When any property is held in the names of two or more persons, or is deposited in a financial institution in the names of two or more persons, so that, upon the death of one of them, the survivor or survivors have a right to the immediate ownership or possession and enjoyment of the whole property, the accrual of such right, upon the death of one of them, shall be deemed a transfer subject to tax

* "posses" in original.

under this act, of a fractional portion of such property to be determined by dividing the value of the whole property by the number of joint tenants in existence immediately preceding the death of the deceased joint tenant. This section shall not apply to property and interests in property passing by right of survivorship to the survivor of husband and wife. If the co-ownership was created in contemplation of death, within the meaning of section 222 of this act, the entire interest so transferred shall be subject to tax only under section 222, as though a part of the estate of the person who created the co-ownership.

ARTICLE III.

TRANSFERS NOT SUBJECT TO TAX

Section 301. Governments.—Transfers of property to or for the use of any of the following are exempt from inheritance tax:

- (1) The United States of America,
- (2) The Commonwealth of Pennsylvania,
- (3) A political subdivision of the Commonwealth of Pennsylvania.

Section 302. Charities.—Transfers of property to or for the use of any of the following are exempt from inheritance tax:

- (1) Any corporation, unincorporated association or society organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation;
- (2) Any trustee or trustees, or any fraternal society, order or association operating under the lodge system, but only if the property so transferred is to be used by the trustee or trustees, or by the fraternal society, order or association, exclusively for religious, charitable, scientific, literary or educational purposes, or for the prevention of cruelty to children or animals, and no substantial part of the activities of the trustee or trustees, or of the fraternal society, order or association, is carrying on propaganda, or otherwise attempting to influence legislation.
- (3) Any veterans' organization incorporated by act of Congress, or its departments or local chapters or posts, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 303. *Life Insurance.—All proceeds of insurance on the life of the decedent, unless payable to the estate of the decedent, are exempt from inheritance tax. Proceeds payable to an inter vivos or testamentary trustee or other beneficiary designated in the decedent's will or in an inter vivos instrument of transfer are exempt from inheritance tax within the meaning of this section.

Section 304. War Risk Insurance.—All proceeds of any Federal War Risk Insurance, National Service Life Insurance or similar governmental insurance, unless payable to the estate of the decedent, are exempt from inheritance tax. Proceeds payable to an inter vivos or testamentary trustee or other beneficiary designated in the decedent's will or in an inter vivos instrument of transfer are exempt from inheritance tax within the **meaning of this section.

Section 305. Inter Vivos Transfers to Exempt Donee.—Inter vivos transfers as defined in sections 221-226, which might otherwise be subject to inheritance tax, are exempt where the transferee is a governmental body, as defined in section 301, or a charity, as defined in section 302.

Section 306. Intangibles of Nonresident.—Intangible personal property held by, for, or for the benefit of a decedent who, at the time of his death was a nonresident, is exempt from inheritance tax.

Section 307. Advancements.—A transfer made as an advancement of or on account of an intestate share, or in satisfaction or partial satisfaction of a gift by will, but not in contemplation of death within the meaning of section 222 of this act, is exempt from inheritance tax.

Section 308. Adjusted Service Certificates and Service Bonds.—Adjusted service certificates issued under the act of Congress of May 19, 1924, and adjusted service bonds issued under the act of Congress of January 27, 1936, are exempt from inheritance tax.

Section 309. Appointed Property.—Property subject to a power of appointment, whether or not such power is exercised, and notwithstanding any blending of such property with the property of the donee, is exempt from inheritance tax in the estate of the donee of the power of appointment.

Section 310. Commonwealth.—Property awarded to the Commonwealth of Pennsylvania as statutory heir, by escheat, or without escheat, otherwise than as cus-

* "Iife" in original.

** "meeting" in original.

todian for a known distributee, is exempt from inheritance tax. Inheritance tax shall be deducted at the applicable rate without interest from any such exempt funds thereafter distributed by the Commonwealth.

Section 311. Husband and Wife.—Property owned by husband and wife with right of survivorship is exempt from inheritance tax. If, however, such ownership was created in contemplation of death, within the meaning of section 222 of this act, the entire interest so transferred shall be subject to tax under section 222 as though a part of the estate of the spouse who created the co-ownership.

Section 312. Nominal Ownership.—Property held in the name of a decedent who had no beneficial interest therein is exempt from inheritance tax.

Section 313. Obligations Worthless at Death.—Obligations owing to the decedent which are worthless immediately before death are exempt from inheritance tax although collectible from the obligor's distributive share of the estate.

Section 314. Social Security Death Payment.—The lump-sum death payment from the United States Social Security Administration or any payment made in lieu thereof by another agency of the United States, whether or not paid to the decedent's estate, is exempt from inheritance tax.

Section 315. Railroad Retirement Burial Benefit.—The lump-sum burial benefit from the United States Railroad Retirement Board, whether or not paid to the decedent's estate, is exempt from inheritance tax.

Section 316. Employment Benefits.—Payments under pension, stock-bonus or profit-sharing plans, to distributees designated by decedent or designated in accordance with the terms of the plan, other than the estate of the decedent, are exempt from inheritance tax to the extent that decedent before his death did not otherwise have the right to possess (including proprietary rights at termination of employment), enjoy, assign or anticipate the payments so made. The proceeds of life insurance otherwise exempt under section 303 shall not be subject to inheritance tax because they are being paid under a pension, stock-bonus or profit-sharing plan.

ARTICLE IV.

RATE OF TAX

A. Inheritance Tax

Section 401. Method of Computation of Tax; Residents.—When the decedent was a resident, the tax shall

be computed upon the value of the property, in excess of the deductions hereinafter specified, at the rates in effect at the transferor's death.

Section 402. Method of Computation of Tax; Non-residents.—When the decedent was a nonresident, the tax shall be computed upon the value of real property and tangible personal property having its situs in Pennsylvania, in excess of unpaid property taxes assessed thereon and any indebtedness for which it is liened, mortgaged or pledged, at the rates in effect at the transferor's death: Provided, That the person liable to make the return under section 701 may elect to have the tax computed as if the decedent were a resident and his entire estate were property having its situs in Pennsylvania, and the tax due in such event shall be that amount which bears the same ratio to the tax thus computed as the real property and tangible personal property located in Pennsylvania bears to the entire estate of such decedent.

Section 403. Rate of Tax; Class A.—Inheritance tax upon the transfer of property passing to or for the use of any of the following shall be at the rate of two (2) percent:

- (1) Grandfather, grandmother, father, mother, husband, wife and lineal descendants;
- (2) Wife or widow, and husband or widower, of a child.

Section 404. Rate of Tax; Class B.—Inheritance tax upon the transfer of property passing to or for the use of all persons other than those designated in section 403, shall be at the rate of fifteen (15) percent.

Section 405. Rate of Tax; Joint Interests.—When property passes to or for the use of a husband and wife with right of survivorship, one of whom is taxable at the rate provided in section 403, and the other of whom is taxable at the rate provided in section 404, the rate of tax imposed by section 403 shall be applied to the entire interest.

Section 406. Renunciation of Transfer.—When any person entitled to a distributive share of an estate, whether under an inter vivos trust, a will, or the intestate law, renounces his right to receive the distributive share within three (3) months after the grant of letters, or within one (1) year after the death of the decedent, whichever first occurs, receiving therefor no consideration, the tax shall be computed as though the persons who benefit by such renunciation were originally designated to be the distributees, conditioned upon an adjudication or decree of distribution expressly confirm-

ing distribution to such distributees. Notice of the filing of the account and of its call for audit or confirmation shall include notice to the Department of Revenue. When an unconditional vesting of a future interest does not occur at the decedent's death, the renunciation specified herein of the future interest may be made within three (3) months after the occurrence of the event or contingency which resolves the vesting of such interest in possession and enjoyment.

Section 407. *Compromise of Rights.*—In case of a compromise of a dispute regarding rights and interests of transferees, made in good faith, the tax shall be computed as though the persons so receiving distribution were originally entitled thereto as transferees of the property received in the compromise, conditioned upon an adjudication or decree of distribution expressly confirming distribution to such distributees. In such case, notice of the filing of the account and of its call for audit or confirmation shall include notice to the Department of Revenue.

Section 408. *Powers of Appointment.*—Property subject to a power of appointment, whether or not such power is exercised, and notwithstanding any blending of such property with the property of the donee, shall be taxed only as part of the estate of the donor.

B. Estate Tax—Residents

Section 421. *When Federal Credit Not Exhausted.*—In the event that a Federal estate tax is payable to the United States on the estate of a decedent who was a resident of the Commonwealth at the time of his death, and the inheritance tax, if any, paid to the Commonwealth (disregarding interest or the amount of any discount allowed under section 716 of this act), plus the death taxes (not including any death tax expressly imposed to receive the benefit of the credit for state death taxes allowed by the Federal estate tax law) paid to other states or territories in respect to the property of the decedent, is less than the maximum credit for state taxes allowed by the Federal estate tax law, a tax equal to such difference is hereby imposed.

C. Estate Tax—Nonresidents of United States

Section 431. *When Federal Credit Not Exhausted.*—In the event that a Federal estate tax is payable to the United States on the estate of a decedent who was not a resident of the United States or its territories at the time of his death, and the inheritance tax, if any, paid to the Commonwealth (disregarding interest or the amount of any discount allowed under section 716 of

this act) is less than the maximum credit for state taxes allowed by the Federal estate tax law, a tax is hereby imposed, to be computed by deducting the Pennsylvania inheritance tax, if any, paid as aforementioned from an amount which bears the same ratio to the maximum credit for state taxes allowed by the Federal estate tax law, as the transfer of property subject to inheritance tax under this act and included in the decedent's gross estate for Federal estate tax purposes bears to the decedent's gross estate located within the United States and its territories for Federal estate tax purposes.

D. Estate Tax—General

Section 441. Additional Inheritance Tax After Payment of Estate Tax; Credit.—When an inheritance tax imposed under sections 401-408 of this act, is imposed after an estate tax imposed under section 421 or 431 of this act has been paid, the estate tax so paid shall be credited against any inheritance tax later imposed.

ARTICLE V.

VALUATION

Section 501. Valuation Date; Property Valued; In General.—For the purpose of this act, except as hereinafter expressly provided, the valuation date shall be the date of the transferor's death. When the transfer was made during lifetime, and was not in trust, the property transferred shall be valued at the transferor's death. When the transfer was to an inter vivos trust, the property to be valued shall be that comprising the portion of the trust, if any, which exists at the transferor's death, and which portion is traceable from property, the transfer of which is subject to tax under this act.

Section 502. Valuation of Life Interest.—The value of a life interest shall be determined in accordance with the Mortality Table presently appearing as Table 38, Makehamized, in the volume entitled "United States Life Tables and Actuarial Tables, 1939-1941," published by the United States Department of Commerce, Bureau of the Census (1946), with interest at the rate of three and one-half ($3\frac{1}{2}$) percent per year, compounded annually.

Section 503. Valuation of Interest for Term Certain.—The value of an interest for a term certain shall be determined on the basis of interest at the rate of three and one-half ($3\frac{1}{2}$) percent per year, compounded annually.

Section 504. Valuation of Limited Estate; Yearly Income.—In determining the present value of a life

interest or an interest for a term certain, other than payments in fixed amounts, the yearly income, or the annual value of the use or income, of such interest, shall be considered equivalent to three and one-half ($3\frac{1}{2}$) percent of the appraised value for inheritance tax purposes of the property upon which the interest is based.

Section 505. Annuity or Life Estate Terminated Within Year of Decedent's Death.—If an annuity or a life estate is terminated by the death of the annuitant or life tenant or by the happening of a contingency within one (1) year after the death of the transferor, the value of the annuity or estate shall be the value, at the date of the transferor's death, of the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period he was entitled to the annuity or was in possession of the estate. If an appraisal of an annuity or life estate has been filed before such termination, the appraisal, and any assessment based thereon, shall be revised, in accordance with this section, upon request of any party in interest, including the Commonwealth and the personal representative, insofar as such appraisal, and any assessment based thereon, relates to the valuation of such terminated annuity or life estate, without the necessity of such party in interest following any procedure described in Article X. of this act.

Section 506. Valuation Date; Future Interest.—Except as otherwise expressly provided in this act, the valuation date of a transfer of any interest in property to take effect in possession and enjoyment after the expiration of one or more interests for a term of years, for life, or for other limited period, shall be the date such interest takes effect in possession and enjoyment. The tax shall be computed upon the value of the interest at such date. Except as otherwise expressly provided, when the tax on the future interest is paid prior to its taking effect in possession and enjoyment, the tax shall be computed upon the value of the interest in the property at the applicable date specified in section 713 or 714, diminished by the then value of the preceding limited estate or estates, as determined under the appropriate sections of this Article.

Section 507. Valuation of Property Subject to Option or Agreement; Closely Held Business Interest.—When a decedent's property is subject, during his lifetime and at the time of his death, to a binding option or agreement to sell, the appraised value thereof shall not exceed the amount of the established price payable therefor, provided the option or agreement is a bona fide arrangement and not a device to transfer such prop-

erty for less than an adequate and full consideration in money or money's worth. If the option or agreement is not exercised and consummated, the value at which the property is appraised shall not be limited to the established price payable therefor, and it shall not exceed the value of the property on the date of the transferor's death. When tax has been assessed on the basis of such established price, and the option or agreement is thereafter not exercised and consummated, or an amount greater than such established price is received for the property, the fiduciary or transferee shall file a supplemental return reporting the facts.

ARTICLE VI.

DEDUCTIONS

A. In General

Section 601. In General.—The only deductions from the value of the property transferred shall be those set forth in this Article. Except as otherwise expressly provided in this act, they shall be deductible regardless of whether or not assets comprising the decedent's taxable estate are employed in the payment or discharge of the deductible items: Provided, That when a tax is imposed upon a transfer described in sections 221-241, such deductions shall be allowed to the transferee only to the extent that the transferee has actually paid the deductible items and either (1) the transferee was legally obligated to pay the deductible items, or (2) the estate subject to administration by a personal representative is insufficient to pay the deductible items.

B. Expenses—Deductible

Section 611. *Administration Expenses.—All reasonable expenses of administration of the decedent's estate and of the assets includable in the decedent's taxable estate shall be deductible.

Section 612. Bequest to Fiduciary or Attorney in Lieu of Fees.—A transfer to an executor, trustee or attorney in lieu of compensation for services shall be deductible to the extent it does not exceed reasonable compensation for such services to be performed.

Section 613. Family Exemption.—The family exemption shall be deductible.

Section 614. Funeral and Burial Expenses.—Reasonable and customary funeral expenses, including the cost of a family burial lot or other resting place, shall be deductible.

* "Administration" in original.

Section 615. Tombstones and Gravemarkers.—Reasonable and customary expenses for the purchase and erection of a monument, gravestone, or marker on decedent's burial lot or final resting place shall be deductible.

Section 616. Burial Trusts or Contracts.—Bequests or devises in trust, or funds placed in trust after decedent's death, or funds paid under a contract after decedent's death, in reasonable amounts, to the extent that such funds or the income therefrom are to be applied to the care and preservation of the family burial lot or other final resting place in which the decedent is *buried or the remains of the decedent repose, and the structure thereon, shall be deductible.

Section 617. Bequests for Religious Services.—Bequests in reasonable amounts for the performance or celebration of religious rites, rituals, services or ceremonies, in consequence of the death of the decedent, shall be deductible.

C. Taxes—Deductible

Section 621. Property Taxes.—Taxes imposed against the decedent or against any property constituting a part of decedent's gross taxable estate, and which are owing prior to decedent's death, shall be deductible. However, taxes for which decedent is not personally liable shall not be deductible in an amount exceeding the value of the property against which such taxes are liened.

Section 622. State and Foreign Death Taxes.—Death taxes, other than Federal estate tax, disregarding interest and penalty, paid to other states and territories of the United States, and to taxing jurisdictions outside the United States and its territories, on assets, the transfer of which is subject to tax under this act, if such taxes are required to be paid to bring the assets into Pennsylvania, or to transfer them to the new owner, shall be deductible.

D. Liabilities—Deductible

Section 631. Liabilities of the Decedent; In General.—All liabilities of the decedent shall be deductible, subject to the limitations hereinafter set forth.

Section 632. Debts Based Upon Contract or Agreement; In General.—Except as otherwise provided in sections 638 and 639, the deductions hereinafter set forth for indebtedness of the decedent, when founded upon a promise or agreement, shall be limited to the extent that it was contracted bona fide and for an adequate and full consideration in money or money's worth.

* "budled" in original.

Section 633. Secured Loan.—Except as provided by section 664, indebtedness owing by the decedent upon a secured loan shall be deductible whether or not the security is a part of the gross taxable estate.

Section 634. Joint Obligation.—Except as provided by section 664, the decedent's liability (net of all collectible contribution) on a joint obligation, shall be deductible whether or not payment thereof is secured by entireties property or property which passes to another under the right of survivorship.

Section 635. Support Contract.—Indebtedness arising from a contract for the support of the decedent shall be deductible.

Section 636. Legacy in Discharge of Decedent's Obligation.—Decedent's obligation shall be deductible whether or not discharged by testamentary gift.

Section 637. Outlawed Debt.—Decedent's debt, which is unenforceable because of any statute of limitations, shall be deductible if paid by the estate.

Section 638. Pledge to Exempt Transferee.—A pledge to a transferee exempt under the provisions of section 302 of this act shall be deductible if paid by the estate, whether or not it is legally enforceable.

Section 639. Liability for Tort or as Accommodation Party.—Liabilities arising from the decedent's tort or from decedent's status as an accommodation endorser, guarantor or surety, shall be deductible except to the extent that it can be reasonably anticipated that decedent's estate will be exonerated or reimbursed by others primarily liable or subject to contribution.

Section 640. Married Women's Obligations.—The fact that a wife is survived by a husband legally liable, and financially able, to pay any item which, if she were unmarried, would qualify as a deduction under this Article, shall not result in the disallowance of such item as a deduction.

E. Future Interests—Costs and Taxes—Deductible

Section 651. Costs; Taxes.—All reasonable expenses of administration, incurred after assessment of the inheritance tax on prior interests, and all death taxes paid out of property supporting such prior interests, shall not be included in the appraisal in determining the value of a future interest on the valuation date. This section shall not apply when the tax is paid under the provisions of sections 713 (a) and 714 (a).

F. Not Deductible

Section 661. Spouse's Allowance.—The value of assets claimed for the spouse's allowance under section 2 (3) of the Intestate Act of 1947 shall not be deductible.

Section 662. Claims Under Marital or Support Agreement With Former or Surviving Spouse.—Claims of a former or surviving spouse, or others, under an agreement between the former or surviving spouse and the decedent, insofar as they arise in consideration of a relinquishment or promised relinquishment of marital or support rights, shall not be deductible.

Section 663. Litigation Expenses.—Litigation expenses of beneficiaries shall not be deductible.

Section 664. Indebtedness Secured by Foreign Property.—Indebtedness secured by real property, or tangible personal property, all of which has its situs outside of Pennsylvania, shall not be deductible except to the extent the indebtedness exceeds the value of such property.

ARTICLE VII.

RETURNS—DETERMINATION OF TAX—PAYMENT OF TAX

A. Inheritance Tax

Section 701. Persons Responsible for Return.—The following persons shall make a return:

(1) The personal representative of the estate of the decedent as to property of the decedent administered by him and such additional property which is or may be subject to inheritance tax of which he shall have or acquire knowledge;

(2) The transferee of property upon the transfer of which inheritance tax is or may be imposed by this act, including a trustee of property transferred in trust: Provided, That no separate return need be made by the transferee of property included in the return of a personal representative.

The inclusion of property in the return shall not constitute an admission that its transfer is taxable.

Section 702. Supplemental Returns.—Any person required to file a return under section 701 of this act shall promptly file a supplemental return with respect to such additional assets and transfers as come to his knowledge after his original return has been filed.

Section 703. Time for Filing Return.—The returns required by section 701 shall be filed within one (1) year after the death of the decedent. At any time within such year, the Secretary of Revenue, in his discretion, may grant an extension of the time for filing of a return for an additional period of six (6) months.

Section 704. Form of Returns.—The returns required by sections 701 and 702 shall be made in the form prescribed by the Secretary of Revenue.

Section 705. Place for Filing Returns.—When the decedent was a resident, the returns shall be filed with the register. When the decedent was a nonresident, the returns shall be filed with the register who issued letters, if any, in the Commonwealth; otherwise, with the Department of Revenue.

Section 706. Appraisement.—The Secretary of Revenue shall have supervision over, and make or cause to be made, fair and conscionable appraisements of property, the transfer of which is subject to tax under this act. The appraisement, unless suspended until audit, shall be made within six (6) months after the return has been filed and, if not so made, shall be made within such further period as the court, upon application of any party in interest, including the personal representative, shall fix.

Section 707. Deductions.—The official with whom the return is required by section 705 to be filed shall determine the allowance or disallowance of all deductions claimed. The determination, unless suspended until audit, shall be made within six (6) months after the claim for allowance has been filed and, if not so made, shall be made within such further period as the court, upon application by any party in interest, including the personal representative, shall fix. Notwithstanding the foregoing, the court, at the request of the fiduciary at the audit of his account, may determine and allow, as deductions, all properly deductible credits claimed in the account or allowed at the audit, without requiring the filing of a separate claim for them, and the court may thereupon fix the amount of the tax and decree payment thereof; Provided, That deductions exceeding one hundred dollars (\$100) in the aggregate shall not be allowed by the court unless the Commonwealth is represented at the audit by counsel, or unless there be proof that the register has had at least thirty (30) days' notice of the claim.

Section 708. Assessment of Tax.—After the appraisement has been made, and the allowance or disallowance of deductions determined, the inheritance tax, as affected by the court's determination of the allowance or disallowance of deductions as provided in section 707, shall be assessed by the official with whom the return is required to be filed under section 705. The assessment, unless suspended until audit, shall be made within one (1) month after the filing of the appraisement or determination of deductions, whichever occurs later and,

if not so made, shall be made within such further period as the court, upon application by any party in interest, including the personal representative, shall fix.

Section 709. Notice.—The Secretary of Revenue shall give, or cause to be given, notice of the filing of the appraisal, the determination of the allowance or disallowance of deductions, and the amount of tax assessed, and any supplements thereto, to the personal representative and to any transferee who filed a tax return, or to their respective attorneys.

Section 710. Failure to File Returns Not a Bar to Assessment of Tax.—Failure to file a return of a taxable transfer shall not bar the making of an appraisal or supplemental appraisal, or assessment of tax or supplemental assessment of tax, based upon taxable transfers not returned under the provisions of this act.

Section 711. Payment Date; In General.—Inheritance tax is due at the date of the decedent's death and (except as provided in section 712) shall become delinquent at the expiration of one (1) year after the decedent's death.

Section 712. Payment Date; Future Interest.—In the case of a transfer of any estate, income, or interest, to take effect in possession and enjoyment after the expiration of any one or more interests for a term of years, for life, or for other limited period, the tax on such future interest shall be payable within three (3) months after the transfer takes effect in possession and enjoyment, and shall be delinquent thereafter.

Section 713. Payment Date; Future Interest; Year of Decedent's Death; Contingencies.—

(a) Payment Within Year of Decedent's Death. At any time within one (1) year after the decedent's death, the personal representative or any party in interest may elect, by a writing filed with the register, to have the value of a future interest determined as of the date of *decedent's death and to pay the tax assessed thereon. Such tax shall become delinquent at the expiration of one (1) year after the decedent's death. If the future interest is accelerated within the year of decedent's death because of the occurrence of an event described in section 505, the value of the future interest shall be determined by making adjustment for the value of any prior interest causing such acceleration, computed as provided in section 505.

(b) Future Interest Subject to Contingencies. When the rate of tax on the transfer of a future interest is dependent upon a contingency, and the election per-

* "decedent's" in original.

mitted by subsection (a) is made, it shall specify whether tax is to be assessed at the lowest rate possible in the specific contingencies involved or at a higher rate. If the tax rate applicable to the person to whom the property actually passes when such future interest takes effect in possession and enjoyment shall be higher than the rate theretofore paid under the election, the tax on the future interest shall then be reassessed, based upon the rate actually applicable, the valuation date to be the date such interest takes effect in possession and enjoyment as provided in section 506, and the delinquent date to be as provided in section 712, credit being given, however, for the amount of any tax on such future interest theretofore paid pursuant to the election, but without interest being allowed thereon and without any diminution for the value of any preceding estate or estates as of any earlier date. If the tax rate applicable to the person to whom the property actually passes when such future interest takes effect in possession and enjoyment is lower than the rate theretofore paid under the election, the tax on the future interest shall then be reassessed, based upon the rate actually applicable, the valuation date to be the date such interest takes effect in possession and enjoyment as provided in section 506, and the delinquent date to be as provided in section 712, and a refund of any excess shall be made without interest.

Section 714. Payment Date; Future Interest; Payment After Year from Decedent's Death; Contingencies.

(a) Payment After Year from Decedent's Death. At any time after one (1) year from the decedent's death, and prior to the vesting of a future interest in possession and enjoyment a fiduciary, or any party in interest, may elect, by a writing filed with the register, to have the value of a future interest determined as of the date of the filing of such election and to pay the tax assessed thereon. Such tax shall become delinquent at the expiration of three (3) months from the filing of the election.

(b) Future Interests Subject to Contingencies. When the rate of tax on the transfer of a future interest is dependent upon a contingency, and the election permitted by subsection (a) is made, it shall specify whether tax is to be assessed at the lowest rate possible in the specific contingency involved or at a higher rate. If the tax rate applicable to the person to whom the property actually passes when such future interest takes effect in possession and enjoyment shall be higher than the rate theretofore paid under the election, the tax on the future interest shall then be reassessed, based upon the rate actually applicable, the valuation date to be the date such interest takes effect in possession and enjoyment as provided in section 506, and the delinquent date to

be as provided in section 712, credit being given, however, for the amount of any tax on such future interest theretofore paid pursuant to the election but without interest being allowed thereon and without any diminution for the value of any preceding estate or estates as of any earlier date. If the tax rate applicable to the person to whom the property actually passes when such future interest takes effect in possession and enjoyment is lower than the rate theretofore paid under the election, the tax on the future interest shall then be reassessed, based upon the rate actually applicable, the valuation date to be the date such interest takes effect in possession and enjoyment as provided in section 506, and the delinquent date to be as provided in section 712, and a refund of any excess shall be made without interest.

Section 715. Effect of Election.—An election made in accordance with section 713 or 714 shall be binding upon all parties in interest.

Section 716. Discount.—To the extent that the inheritance tax is paid within three (3) months after the death of the decedent, a discount of five (5) percent shall be allowed.

Section 717. Interest.—If the inheritance tax is not paid before the date it becomes delinquent, thereafter interest on the unpaid tax shall be charged at the rate of six (6) percent annually. When payment of inheritance tax is not made because of litigation or other unavoidable cause of delay, and the property on which the tax has been calculated has remained in the hands of a fiduciary and has not produced a net income of six (6) percent annually, interest for such period shall be calculated at the rate of the net income produced by such property. When the decedent owned a future interest, and the tax thereon has not been paid prior to the time the decedent's estate is entitled to possession and enjoyment thereof, interest on such tax shall not begin to run until three (3) months after the decedent's estate becomes entitled to possession and enjoyment thereof. Any payment on delinquent inheritance tax shall be applied, first, to any interest due on the tax at the date of payment, and then, if there is any balance, to the tax itself.

Section 718. Source of Payment.—

(a) Outright *Devises and Bequests. In the absence of a contrary intent appearing in the will, the inheritance tax imposed by this act on the transfer of property passing by will absolutely and in fee, shall be paid out of property forming a part of the residuary estate. Such payment shall be made by the personal representative and, if not so paid, shall be made by the transferee of the residuary estate.

* "Devises" in original.

(b) Transfer for Limited Period. In the absence of a contrary intent appearing in the will or other instrument of transfer, the inheritance tax imposed by this act, in the case of a transfer of any estate, income or interest for a term of years, for life, or for other limited period, shall be paid out of the principal of the property by which the estate, income or interest is supported. Such payment shall be made by the personal representative and, if not so paid, shall be made by the trustee, if any, and, if not so paid, shall be made by the transferee of such principal.

(c) Other Transfers. Except as provided in subsections (a) and (b) of this section, the ultimate liability for inheritance tax imposed by this act shall be upon each transferee.

Section 719. Place of Payment.—When the decedent was a resident, the inheritance tax shall be paid to the register. When the decedent was a nonresident, the inheritance tax shall be paid to the register who issued letters, if any, in the Commonwealth; otherwise to the Department of Revenue.

Section 720. General Powers of Secretary of Revenue.—In the event that the register fails to take the necessary proceedings in connection with the appraisal, allowance of deductions, assessment of tax, or the collection of tax, the Secretary of Revenue shall have all the powers herein vested in the register and, at his option, may take such action, and shall charge to the register and deduct from any commissions or fees otherwise due him all costs and expenses incurred by the Secretary of Revenue, in connection with such proceedings.

B. Estate Tax

Section 731. Persons Liable.—The person or persons required by section 701 to make the inheritance tax return shall be initially liable for payment of the estate tax imposed by sections 421 and 431.

Section 732. Filing of Return; Time; Place; Assessment of Tax.—The personal representative of every decedent or, if there is no personal representative, any other fiduciary charged by law with the duty of filing a Federal estate tax return, within one (1) month of the filing or receipt thereof shall file with the register or, if the decedent was a nonresident, with the register who issued letters, if any, in the Commonwealth, or otherwise with the Department of Revenue, a copy of his Federal estate tax return and of any communication from the Federal Government making any final change in the return or of the tax due thereon. The assessment of estate tax shall be made by such official within three

(3) months after the filing of the documents here required to be filed and, if not so made, shall be made within such further period as the court, upon application of any party in interest, including the personal representative, shall fix.

Section 733. *Payment Date.*—The estate tax imposed by sections 421 and 431 is due at the date of the decedent's death, but shall not become delinquent until the expiration of eighteen (18) months after decedent's death: Provided, That any estate tax, imposed by sections 421 and 431 of this act occasioned by a final change in the Federal return or of the tax due thereon, shall not become delinquent until the expiration of one (1) month after the person or persons liable to pay the tax have received final notice of the increase in the Federal estate tax.

Section 734. *Discount.*—No discount shall be allowed in paying the estate tax imposed by sections 421 and 431.

Section 735. *Interest.*—If the estate tax imposed by sections 421 and 431 is not paid before it becomes delinquent under section 733, interest on the unpaid tax shall be charged thereafter at the rate of six (6) percent annually.

Section 736. *Source of Payment.*—The estate tax imposed by sections 421 and 431 shall be apportioned and ultimately borne in accordance with the provisions of the Estate Tax Apportionment Act of 1951, unless otherwise provided by this act or in the instrument of transfer.

Section 737. *Place of Payment.*—When the decedent was a resident, the estate tax shall be paid to the register. When the decedent was a nonresident, the estate tax shall be paid to the register who issued letters, if any, in the Commonwealth; otherwise to the Department of Revenue.

C. Duties of Personal Representatives, Transferees and Depositories

Section 741. *Deduction and Collection of Tax.*—Subject to the provisions of section 718, every personal representative, or other fiduciary in charge of or in possession of any property, or instruments evidencing ownership thereof, the transfer of which is subject to a tax imposed by this act other than tax on a future interest not yet delinquent, shall deduct the tax from the property, if money, or shall collect the tax from the transferee. Any delivery of property or instruments by such fiduciary to a transferee, except in accordance with a decree of distribution of the court, shall not relieve him of personal liability for a tax imposed by this act. No

personal representative or other fiduciary in charge of or in possession of any property subject to this act shall be compelled to pay or deliver it to the transferee except upon payment to him of the tax due thereon other than tax on a future interest not yet delinquent. If such transferee neglects or refuses to pay the tax, the personal representative or other fiduciary may sell the property subject to the tax, or so much thereof as is necessary, under direction of the court. All money retained by the personal representative or other fiduciary, or paid to him on account of the taxes imposed by this act, shall be remitted by him before the tax becomes delinquent or, if received thereafter, shall be remitted by him promptly upon its receipt.

Section 742. Duties of Depositories.—When money is deposited or invested in a financial institution located in Pennsylvania in the names of two or more persons, other than husband and wife, or in the name of a person or persons in trust for another or others, and one of the parties to the deposit or investment shall die, it shall be the duty of the financial institution, within ten (10) days after knowledge of the death, to notify the Department of Revenue thereof, giving the name of the deceased person, the date of the creation of the joint or trust deposit or investment, the amount invested or on deposit at the date of death with the financial institution, and the name and address of the survivor or survivors to the account. No notification shall be required in regard to such accounts when the deposit at the time of death does not exceed three hundred dollars (\$300).

D. Tax Compromise—Arbitration—Alleged Nonresident

Section 751. Compromise by Attorney General.—The Attorney General may compromise in writing, with the person liable, the tax, including interest thereon, payable on any transfer of property included in the estate of any decedent who it is alleged was a nonresident at the time of his death. A copy of the compromise agreement shall be filed with the register who issued letters, if any, in the Commonwealth; otherwise with the Department of Revenue. The compromise agreement shall constitute a final determination of the matters covered by it, and the payment of the tax, as fixed by the agreement, shall discharge all persons and property from liability with respect to the tax.

Section 752. Uniform Act on Interstate Compromise and Arbitration of Inheritance Taxes.—When the register or the Secretary of Revenue alleges that a decedent was a resident of the Commonwealth of Pennsylvania at the time of his death, and the taxing authorities of

another state or territory make a like claim on behalf of their state or territory, a written agreement of compromise or a written agreement to submit the controversy to a board of arbitrators may be made under the provisions of the Uniform Act on Interstate Compromise and Arbitration of Inheritance Taxes.

E. Bond—Future Interests

Section 761. When Required.—When the tax on a transfer of a future interest other than a future interest in real property has not been paid after such tax has become due, the Secretary of Revenue, if he deems it necessary for the protection of the interest of the Commonwealth, may require the transferee in present possession or, if a trust is involved, the trustee, to file a bond in the name of the Commonwealth with sufficient surety, in an amount not exceeding twice the tax computed when the bond is given at the highest rate possible in the specific contingencies involved, conditioned for the payment of the tax before it becomes delinquent. If the transferee in present possession or the trustee fails to enter satisfactory security within sixty (60) days from the notice by the Secretary of Revenue of the need for security, the tax shall thereupon become delinquent. No bond shall be required under the provisions of this section if the trustee or one of the trustees is a bank and trust company or a trust company incorporated in the Commonwealth, or a national banking association having its principal office in the Commonwealth.

Section 762. Filing.—The bond required by section 761 shall be filed in the office of the register.

F. Bond—Delinquent Tax

Section 771. When Required.—The court, in its discretion, at any time after a tax imposed by this act shall become delinquent, upon application of the Secretary of Revenue, may require any person liable for a tax imposed by this act to give a bond for its payment. The bond shall be in the name of the Commonwealth, in such amount and with such surety as the court shall approve, and conditioned for the payment of the tax, plus interest thereon at the rate of six (6) percent annually, commencing on the date the tax became delinquent, within a time certain to be fixed by the court and specified in the bond.

Section 772. Filing.—The bond required by section 771 shall be filed in the office of the register.

G. Evidence of Payment of Tax

Section 781. Real Estate in Another County.—When any tax is imposed and paid under this act on real estate located in a county other than that of the register who received payment, such register shall immediately forward to the register of the county where the real estate is located a certificate of the payment of the tax on such real estate, which shall be entered of record in his office. The register of the county where the real estate is located shall be entitled to a fee of two dollars (\$2) for entering the record of payment, to be paid as a part of the administration expenses of the decedent's estate.

H. Failure to File Returns—False Returns—
Transfer of Securities

Section 791. Failure to File Tax Returns.—Any person who wilfully fails to file a return or other report required of him under the provisions of sections 701, 702 and 732, shall be personally liable, in addition to any liability imposed elsewhere in this act, to a penalty of twenty-five (25) percent of the tax ultimately found to be due or one thousand dollars (\$1,000), whichever is the lesser, to be recovered by the Department of Revenue as debts of like amount are recoverable by law.

Section 792. Failure to Give Notice of Death of Depositor.—Any financial institution which fails to give the notice required by section 742 shall be liable to a penalty of one hundred dollars (\$100), to be recovered by the Department of Revenue as debts of like amount are recoverable by law.

Section 793. False Returns; Misdemeanor.—Any person who wilfully makes a false return or report required of him under the provisions of this act shall, in addition to any liability imposed elsewhere in this act, be guilty of a misdemeanor and, on conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000) or undergo imprisonment not exceeding one (1) year, or both.

Section 794. Transfer of Securities.—Any corporation making a transfer of stock or registered bonds in violation of the provisions of section 831 shall be liable for the payment of the amount of the taxes to which the property so transferred is subject and, in addition thereto, to a penalty of one thousand dollars (\$1,000) to be recovered by the Department of Revenue as debts of like amount are by law recoverable.

ARTICLE VIII.

COLLECTION OF TAX

A. Lien of Tax

Section 801. Lien; Duration.—The taxes imposed by this act, together with any interest thereon, shall be a lien upon the real property included in the transfer on which the taxes are imposed. Except as otherwise provided in this Article, the lien shall remain until the taxes and interest are paid in full.

Section 802. Limited and Future Interests.—In the case of a transfer of any estate, income, or interest (1) for a term of years, for life, or for other limited period, or (2) constituting a future interest, the taxes imposed by this act, together with any interest on the tax, shall remain a lien until paid upon the entire real property by which the estate, income, or interest, is supported, or of which it is a part, and such lien shall be limited to the real property so transferred.

Section 803. Purchaser, Mortgagee or Lessee.—Unless suit for collection of the taxes imposed by this act is instituted within twenty (20) years after any tax becomes delinquent; the lien shall cease as to any purchaser, mortgagee, or lessee of a devisee or heir of, or a beneficiary under a deed of trust of, the real property subject to the lien: Provided, That, at any time within said twenty (20) year period, if any tax on the real property is not paid, the Department of Revenue shall have power to file a certificate, under its seal, certifying to such nonpayment, which, when filed in the office of the clerk of the county where such real property is situated, shall continue the lien against decedent's real property for a further period of five (5) years from the date of such filing, and such lien shall be indexed in the office of the clerk: And provided further, That, if the taxes on the real property are not paid within the additional period of five (5) years, the Department of Revenue shall have power to extend the lien for additional periods of five (5) years by filing a certificate in the manner aforesaid.

Section 804. Sale by Fiduciary.—If real property, subject to the lien of taxes imposed by this act, is sold or exchanged by a fiduciary who is subject to the jurisdiction of the court, and who has given a bond as required by the Fiduciaries Act of 1949, or is a corporate fiduciary which need not file bond under the Fiduciaries Act of 1949, the lien shall cease as to such property.

Section 805. Sale by Heir or Devisee.—If real property, subject to the lien of taxes imposed by this act, is

sold or exchanged or otherwise disposed of by an heir or devisee, and if the inheritance tax, together with interest thereon, is paid on all property reported in the tax return, including the property sold, which property has been appraised and tax assessed thereon, the lien of any unpaid tax imposed by this act shall cease as to the property sold.

Section 806. Sale of Property Transferred Inter Vivos.—When real property, or any income or interest therein, has been transferred within the meaning of sections 221-226, and the transferee has sold, mortgaged, or leased such property, or any income or interest therein, the interest of a bona fide purchaser, mortgagee or lessee in such property shall not be subject to any lien for the taxes imposed by this act.

Section 807. Subordination of Lien.—If real property, subject to the lien, is mortgaged or leased by a fiduciary who is subject to the jurisdiction of the court, and who has given a bond as required by the Fiduciaries Act of 1949, or is a corporate fiduciary which need not file bond under the Fiduciaries Act of 1949, the lien shall become subject and subordinate to the rights and interests of the mortgagee, lessee or other person so secured.

Section 808. Cessation upon Approval of Bond.—Upon approval of a bond for the payment of taxes imposed upon a transfer, the lien upon the real property theretofore subject to the lien shall cease. The amount of the bond shall not exceed the value of the real property so transferred.

Section 809. Release of Lien; No Tax Due.—In case of a transfer, other than by will or intestacy, the Secretary of Revenue, upon satisfactory proof that no taxes are due which would be a lien on the real property transferred by reason of the death of the transferor, may release all or any portion of such property from any lien imposed by this act to which the property otherwise might be subject.

A certificate by the Secretary of Revenue to the effect that any real property or interest therein has been released from any lien imposed by this act shall be conclusive evidence as to any bona fide purchaser, encumbrancer or lessee of said property that the property described in the certificate has been released.

Section 810. Release of Lien; Other Security.—The Secretary of Revenue may, at any time, release all or any portion of the real property subject to any lien imposed by this act from such lien, or subordinate such lien to other liens and encumbrances, if he determines

that the taxes are sufficiently secured by a lien on other property of the decedent, or that the release or subordination of such lien will not endanger or jeopardize the collection of said taxes.

A certificate by the Secretary of Revenue to the effect that any real property, subject to any lien imposed by this act, has been released from such lien, or that such lien has been subordinated to other liens and encumbrances, shall be conclusive evidence as to any bona fide purchaser, encumbrancer or lessee that such lien has been released or subordinated.

Section 811. Release of Lien; Partial Payment.—When inheritance tax in respect to the transfer of particular real property is paid on the value of such property without diminution for any deductions authorized by this act, other than a mortgage thereon existing at the date of the decedent's death, the Secretary of Revenue, upon request of a party in interest, shall issue a certificate evidencing the release of such property from the lien of tax.

B. Enforcement—Procedure

Section 821. Citation.—The court, at the request of the register, Secretary of Revenue or Attorney General, shall issue a citation, directed to those liable for the payment of the taxes or subject to any other duty imposed by this act, commanding such person or persons to appear and show cause why the requirements of this act should not be met.

Section 822. Decrees.—The court may issue such decrees as are warranted by the facts, according to equity.

Section 823. Citation; When Issuable.—A citation to enforce payment of taxes due under this act or compliance with the duties required by this act shall be issued by the court upon application of the register, Secretary of Revenue or Attorney General whenever:

- (1) A tax return is not filed within the time required by this act;
- (2) Any tax due under this act remains delinquent;
- (3) A Federal estate tax return has been filed, but a copy thereof, or a communication making a final change therein, has not been filed as required by section 732; or
- (4) Any other duty imposed by this act remains unperformed.

Section 824. Subpoenas.—The register or Secretary of Revenue may issue subpoenas to compel the production of documents and the attendance of witnesses necessary for the administration of this act.

Section 825. Property Subject to Execution.—Execution may be issued by the court against any real property in the decedent's estate on which a lien for the payment of the taxes imposed by this act exists, or against any property belonging to a transferee liable for the tax.

Section 826. Reciprocity with Other States.—The Secretary of Revenue may bring suits in the courts of other states to collect death taxes (including interest and penalties thereon) imposed by this act. An official of another state which extends a like comity to this Commonwealth may sue for the collection of death taxes (including interest and penalties thereon) in the courts of this Commonwealth. A certificate by the secretary of state of another state, under the seal of that state, that an official has authority to collect its death taxes shall be conclusive evidence of the authority of such official in any suit for the collection of such taxes in any court of this Commonwealth.

C. Transfers of Securities

Section 831. Transfers; *Corporate Stock and Registered Bonds.—No corporation, organized or existing under the laws of this Commonwealth or national banking association located in this Commonwealth, shall transfer on its books or issue a new certificate for any share of its capital stock or its registered bonds, belonging to or standing in the name of a resident decedent, belonging to or standing in the joint names of a resident decedent and one or more other persons, or held in trust for a resident decedent, unless the inheritance tax upon the transfer has been paid, or the written consent of the Secretary of Revenue, or of a person authorized in writing by the Secretary of Revenue to issue the consent, is first secured, or there is presented to it an affidavit of the personal representative or heir of the decedent, or his or their attorney, that the decedent was a nonresident at the time of his death, or that the person in whose name such share or registered bond stands jointly with the decedent was the spouse of the decedent at the time of death, and that the ownership in, or designation of, such spouse was not created within two (2) years before decedent's death.

Whenever the inheritance tax upon the transfer of stock or registered bonds of any such corporation or association, belonging to or standing in the name of a decedent, belonging to or standing in the joint names of a decedent and one or more other persons, or held in trust for a decedent, is paid, it shall be the duty of the Secretary of Revenue, upon his own motion or the re-

* "Coporate" in original.

quest of any party in interest or of such corporation or association, to file with such corporation or association a certificate of such payment.

The provisions of this section shall not apply to the transfer of stock or registered bonds assigned by a decedent before his death as collateral security for a loan: Provided, That any lender so holding such stock or registered bonds shall, upon selling it, send a written report to the Department of Revenue, stating the amount for which the stock or registered bonds were sold and the amount which was applied in reduction or payment of the loan. Any corporation or association, hereinabove described, may transfer such stock or registered bond upon presentation to it of an affidavit of such lender, or someone acting on his or its behalf, that the stock was held as security at the time of decedent's death.

ARTICLE IX.

REFUND OF TAX—OVERPAYMENT

Section 901. When Refunds Will be Made.—A refund shall be made of any tax to which the Commonwealth is not rightfully or equitably entitled, provided (1) the Commonwealth determines the refund is due, or (2) application for refund is made within the appropriate time limit as set forth in section 904.

Section 902. Interest.—Interest shall not be allowed on refundable tax.

Section 903. Form of Refund.—Refund shall be made in cash to the party who paid the tax or to his assignee, or as directed by the court.

Section 904. Time for Claiming Refund.—Application for refund of tax shall be made within two (2) years after:

(1) The court shall have rescinded its order and adjudication of presumed death when refund is claimed for tax paid on the transfer of the estate of a presumed decedent who is later determined to be alive;

(2) Termination of litigation establishing a right to a refund: Provided, That no application for refund shall be necessary when the litigation has been with the Commonwealth over liability for the tax or the amount of tax due;

(3) It has been finally determined that the whole or any part of an alleged deficiency tax, asserted by the Federal Government beyond that admitted to be payable, and in consequence of which an estate tax was paid under section 421 or 431 was not payable;

(4) A final judgment holding that a provision of this act under which tax has been paid is unconstitutional

or that the interpretation of a provision of this act under which tax has been paid was erroneous;

(5) The date of payment, or the date of the assessment of the tax, or the date the tax became delinquent, whichever occurs later, in all other cases.

Section 905. To Whom Application for Refund Shall Be Made.—An application for refund of tax shall be made to the Board of Finance and Revenue.

Section 906. Finality of Board Action.—The action of the Board of Finance and Revenue on all applications for refund of tax shall be final.

ARTICLE X.

DISPUTED TAX

Section 1001. Protest; Notice; Appeal.—Any party in interest, including the Commonwealth and the personal representative, not satisfied with the appraisal, the allowance or disallowance of deductions, the assessment of tax, or supplements thereto, or any other matter relating to any tax imposed by this act, within sixty (60) days after receipt of notice of the action complained of may—

(1) File with the Department of Revenue a written protest thereagainst sending a copy thereof to the Department of Justice; or

(2) Notify the register in writing that he elects to have the correctness of the action complained of determined at the audit of the account of the personal representative; or

(3) Appeal to the court to have the correctness of the action complained of determined at the audit of the account of the personal representative, or at such time as the court shall fix.

The protest, notification or appeal shall specify all the objections to the action complained of. When the protest, notification or appeal is filed by the Commonwealth, a copy thereof shall also be sent to the personal representative and to all other persons who filed a tax return.

Section 1002. Bond.—No bond shall be required of any party in interest who files a protest or notification against, or appeals from, an appraisal, allowance or disallowance of a deduction, assessment of tax, or supplements thereto, or other matter relating to the tax, or from the decision of the Department of Revenue following a protest, or who petitions for removal of the record to the court.

Section 1003. Appeal and Removal from Department of Revenue.—Any party in interest, including the Commonwealth and the personal representative, not satisfied with the decision of the Department of Revenue upon a protest may appeal therefrom to the court within sixty (60) days after receipt of notice of the entry of the decision of the Department of Revenue. When no decision has been rendered by the Department of Revenue within thirty (30) days after the protest has been filed therewith, the court upon petition of any such party in interest may direct the Department of Revenue to transmit the entire record to the court. When an appeal is taken from the decision of the Department of Revenue, or the court directs the Department of Revenue to transmit the entire record to the court, the court shall either proceed to a determination of the issues protested to the Department of Revenue or suspend the determination until the audit of the account of the personal representative.

ARTICLE XI.

ENTRY INTO SAFE DEPOSIT BOX

A. Entry Prohibited

Section 1101. Safe Deposit Box of a Decedent; Definition.—For the purpose of this Article, “safe deposit box of a decedent” shall mean a safe deposit box in a financial institution located in Pennsylvania, in the name of the decedent alone or in the names of the decedent and another or others.

Section 1102. Entry into Safe Deposit Box.—Except as hereinafter expressly provided, no person having actual knowledge of the death of a decedent shall enter a safe deposit box of the decedent.

Section 1103. Interpretation.—This Article shall not be construed to confer upon any person any right of entry into a safe deposit box of a decedent which he does not otherwise have.

B. Entry without Notice to Department of Revenue Permitted

Section 1111. Entry into Safe Deposit Box with Bank Employee.—A safe deposit box of a decedent may be entered, and any or all of the contents removed in the presence of an employe of the financial institution in which the box is located. Such employe shall make, or cause to be made, a record of the contents of the box, which record he shall attest under penalty of perjury to be correct and complete. The financial institution may make a reasonable charge for the attendance of its *em-

* “employe” in original.

ploye at the entry of the box and the listing of the contents, which charge shall be deductible as an administration expense under section 611 of this act.

Section 1112. Entry into Safe Deposit Box with Representative of Department of Revenue.—A safe deposit box of a decedent may be entered, and any or all of the contents removed, in the presence of a representative of the Department of Revenue *authorized by the Secretary of Revenue so to act. The Secretary of Revenue shall authorize at least one such representative in and for each county of the Commonwealth. The representative present at the time of entry into the box shall make or cause to be made a record of the contents of the box.

Section 1113. Entry into Safe Deposit Box under Court Order.—The court for cause shown may order that a designated person or persons be permitted to enter a safe deposit box of a decedent and remove the contents thereof described in the order, under such supervision as the court may direct. The order may also require that a record be made of the contents of the box.

Section 1114. Entry into Safe Deposit Box Used by Business Firm.—Notwithstanding any of the provisions of this Article, the Secretary of Revenue, at any time and without relation to the death of a specific decedent, by a certificate issued to a firm whose business requires ready access to safe deposit boxes used in connection therewith, may issue a general authorization for the entry into, and removal of the contents of, a safe deposit box of a decedent, under such terms and conditions as he may prescribe. A financial institution may permit such entry and removal upon presentation to it of such certificate issued by the Secretary of Revenue.

Section 1115. Entry into Safe Deposit Box to Remove Will and Cemetery Deed.—Nothing in this Article shall prohibit a financial institution from permitting entry into a safe deposit box of a decedent for the sole purpose of removing the decedent's will and evidence of ownership of the burial lot in which the decedent is to be interred: Provided, That an employe of the financial institution is present at the opening of the box and makes or causes to be made a record of the documents removed from the safe deposit box during the entry here permitted and attests such record to be correct and complete under penalty of perjury.

C. Entry upon Notice to Department of Revenue

Section 1121. Entry into Safe Deposit Box after Notice to Department of Revenue.—When entry into a

* "authorizd" in original.

safe deposit box of a decedent is not, or cannot be, made under the provisions of section 1111, 1112, 1113 or 1114, a safe deposit box of a decedent may be entered at such time as shall be fixed in a notice mailed to the Department of Revenue, Harrisburg, Pennsylvania, and to the financial institution in which the box is located, in the manner hereinafter specified. The date fixed for entry and contained in the notice shall not be less than seven (7) days after the date the notice is mailed. A representative of the Department of Revenue may be present at the time fixed for entry, and may make or cause to be made a record of the contents of the box.

Section 1122. Notice to Department of Revenue.—The notice required under the provisions of section 1121 shall be delivered to the Post Office Department for mailing in such manner as will provide for a record of the mailing being made by the Post Office Department and a receipt therefor being *furnished to the sender. An exact copy of the notice shall be transmitted to the financial institution in which the box is located.

Section 1123. Exoneration of Financial Institution.—At the time fixed in the notice required by section 1121, although no representative of the Department of Revenue is present, it shall be lawful for a financial institution in which a safe deposit box of a decedent is located to permit, and it shall permit, entry into the box and removal of its contents, by a person who furnishes a signed statement under penalty of perjury that he or someone in his behalf has given such notice.

D. Subsequent Entries

Section 1131. Subsequent Entries into Safe Deposit Box.—Nothing in this Article shall be construed to impose any restriction upon re-entry into a safe deposit box of a decedent at any time subsequent to an entry made in accordance with any of the provisions of this Article other than section 1115.

E. Confidential Nature of Contents of Safe Deposit Box

Section 1141. Confidential Information.—Any information gained from the contents of a safe deposit box of a decedent by a person whose attendance at the entry into the box was required by this Article shall be confidential and shall not be disclosed for other than official purposes to collect the taxes imposed by this act.

* "furnished" in original.

F. Penalties

Section 1151. Penalties; Others Than Bank Employees.—Any person other than an employe of a financial institution in which the safe deposit box of a decedent is located, who, having actual knowledge of the death of a decedent, enters a safe deposit box of the decedent in violation of the provisions of this Article, shall be guilty of a misdemeanor and, on conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand dollars (\$10,000) or undergo imprisonment not exceeding one (1) year, or both.

Section 1152. Penalties; Bank Employees.—Any employe of a financial institution in which the safe deposit box of a decedent is located, who, having actual knowledge of the death of such decedent, enters, or permits the entry by any person into, a safe deposit box of the decedent in violation of the provisions of this Article shall be guilty of a misdemeanor and, on conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000).

Section 1153. Disclosure of Confidential Information.—Any person who violates the provisions of section 1141 of this act shall be guilty of a misdemeanor and, on conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand dollars (\$10,000) or undergo imprisonment not exceeding one (1) year, or both.

ARTICLE XII.

REPEALER

Section 1201. Repeal.—The following acts and parts of acts and all amendments of each are hereby repealed, but only so far as relate to estates of decedents dying on or after the effective date of this act:

(1) The act approved the 12th day of June, A. D. 1878 (P. L. 206, No. 236), entitled "An act authorizing the state treasurer to refund collateral inheritance tax heretofore paid or that may hereafter be paid in error."

(2) The act approved the 22d day of March, A. D. 1899 (P. L. 20, No. 15), entitled "An act authorizing the State Treasurer to give credit for or refund certain taxes erroneously paid into the State Treasury."

(3) The act approved the 5th day of May, A. D. 1911 (P. L. 112), entitled "An act providing that estates passing from an adopting parent to a legally adopted child, or children, shall not be subject to the collateral inheritance tax."

(4) The act approved the 20th day of June, A. D. 1919 (P. L. 521), entitled "An act providing for the

imposition and collection of certain taxes upon the transfer of property passing from a decedent who was a resident of this Commonwealth at the time of his death, and of property within this Commonwealth of a decedent who was a nonresident of the Commonwealth at the time of his death; and making it unlawful for any corporation of this Commonwealth, or national banking association located therein, to transfer the stock of such corporation or banking association, standing in the name of any such decedent, until the tax on the transfer thereof has been paid; and providing penalties; and citing certain acts for repeal," with the following exceptions, and the same are hereby expressly saved from repeal:

(a) Act approved the 20th day of June, 1919, P. L. 521 §12;

(b) Act approved the 20th day of June, 1919, P. L. 521 §14;

(c) Act approved the 20th day of June, 1919, P. L. 521 §21;

(d) Act approved the 20th day of June, 1919, P. L. 521 §22;

(e) Act approved the 20th day of June, 1919, P. L. 521 §23.

(5) The act approved the 9th day of July, A. D. 1919 (P. L. 794), entitled "An act providing that estates in buildings, ground, books, curios, pictures, statuary and other works of art, passing by will to any municipality, corporation or unincorporated body, for free exhibition within Pennsylvania, shall not be subject to collateral inheritance tax, and, in certain instances, the date when such tax shall become due."

(6) Section 1 of the act approved the 4th day of May, A. D. 1927 (P. L. 727), entitled "A supplement to the act approved the twentieth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, five hundred and twenty-one), entitled 'An act providing for the imposition and collection of certain taxes upon the transfer of property passing from a decedent who was a resident of this Commonwealth at the time of his death, and of property within this Commonwealth of a decedent who was a nonresident of the Commonwealth at the time of his death; and making it unlawful for any corporation of this Commonwealth, or national banking association located therein, to transfer the stock of such corporation or banking association, standing in the name of any such decedent, until the tax on the transfer thereof has been paid; and providing penalties; and citing certain acts for repeal,' authorizing the Auditor General to appoint investigators and appraisers and providing for their compensation."

(7) The act approved the 7th day of May, A. D. 1927 (P. L. 859), entitled "A supplement to the act approved the twentieth day of June, one thousand nine hundred and nineteen (Pamphlet Laws, five hundred and twenty-one), entitled 'An act providing for the imposition and collection of certain taxes upon the transfer of property passing from a decedent who was a resident of this Commonwealth at the time of his death, and of property within this Commonwealth of a decedent who was a non-resident of the Commonwealth at the time of his death; and making it unlawful for any corporation of this Commonwealth, or national banking association located therein, to transfer the stock of such corporation or banking association, standing in the name of any such decedent, until the tax on the transfer thereof has been paid; and providing penalties; and citing certain acts for repeal,' imposing additional taxes equal to Federal credits."

(8) Sections 503(a) (2), 503(a) (3), 503(a) (4), 725, 726, 1202(c), 1203, 1401, insofar as it applies to the taxes imposed by this act, 1714 and 1715, of the act, approved the 9th day of April, A. D. 1929 (P. L. 343), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth."

(9) The act approved the 2nd day of May, A. D. 1929 (P. L. 1258), entitled "An act concerning taxes on the transfer of personal property of nonresidents; and to

make uniform the laws of the State with reference thereto.”

(10) The act approved the 15th day of May, A. D. 1945 (P. L. 546), entitled “An act authorizing the compromise and final settlement of claims and suits for the collection of inheritance taxes upon the estate of decedents; and claims and suits for the escheat of such estates.”

(11) All other acts and parts of acts inconsistent herewith are hereby repealed.

(12) Nothing in this repealer shall affect or impair the lien of any taxes heretofore assessed, or any tax due, owing or payable, or any remedies for the collection thereof or surrender any remedies, powers, rights or privileges acquired by the Commonwealth under the acts hereby repealed.

APPROVED—The 15th day of June, A. D. 1961.

DAVID L. LAWRENCE

—
No. 208

AN ACT

To encourage and permit the prospecting for and development of certain valuable minerals on State forest land and providing for the waiver of competitive bidding requirements therefor.

State Forest
Lands Prospect-
ing Act.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Statement of Policy.—The Commonwealth is interested in the orderly, efficient development and full use of its mineral resources and as large landowner it believes that the possibility of development of minerals on State forest land must not be discouraged and that these lands must not forever be withdrawn from the possibility of mineral development.

Section 2. Short Title.—This act shall be known and may be cited as the “State Forest Lands Prospecting Act.”

Section 3. Definitions.—As used in this act—

(1) “Ores” means all minerals which can be recovered at a profit, except mineral fuels (coal, oil, gas, etc.) peat, clay, building stone, crushed stone, sand, gravel, halite, gypsum and brines but shall include glass sands, high silica sands, black sands, heavy mineral sands, china clays and pottery clays, as well as other valuable non-metallic minerals not excluded above.

(2) “Prospecting” means surface examination, geologic mapping, geophysical and geochemical surveying