

CHAPTER 291

TAXES ON INHERITANCES, DEVISES, AND BEQUESTS

291.01 TAX IMPOSED.

Where husband acquired corporate stock individually through brokers, but subsequently changed his trading account with brokers to make it stand in the names of himself and his wife as joint tenants, and stock was subsequently reissued in the names of husband and wife as joint tenants, a joint tenancy was created, as against the contention that unities of time and title were absent, and hence the wife was not liable after husband's death for husband's unpaid income taxes to the extent of an undivided half-interest in such shares, as she would have been if tenancy in common had been created and wife had received the husband's half interest as a distributee. The most important element of a joint tenancy, in personalty at least, is the intent of the creators of the tenancy that right of survivorship shall exist. *Irvine v Helvering*, 99 F(2d) 265.

The liability of the donor for a gift tax under the revenue act is primary, and that of donor secondary, but donee's liability does not expire when statute of limitations has run against donor's liability. *Winton v Reynolds*, 57 F. Supp. 565.

As the mother in devising property to her daughter was exercising only a "special power of appointment" under her deceased husband's will, the property so devised was not to be included as part of the mother's gross estate. *Janes v Reynolds*, 57 F. Supp. 609.

Where decedent while domiciled and residing in New York owned and kept within that state negotiable bonds and certificates of indebtedness issued by the state of Minnesota and by certain cities, none of which had any connection with business carried on by or for decedent in Minnesota and all of which passed under his will which was probated in New York where he died, the state of Minnesota could not assess inheritance tax on the transfer of such securities. *Farmers Loan and Trust v State of Minnesota*, 50 SC 99, 280 US 204.

At the time of decedent's death on July 24, 1945, he and his wife owned in joint tenancy real and personal property, the title to which was all acquired subsequent to April 29, 1935, but all was traceable to the proceeds of property sold which had been held in joint tenancy prior to April 29, 1935. No part of this property came from moneys of the survivor. Our inheritance law is patterned after that of New York, and following the decisions of that state it is held that all of said property is subject to taxation at its full value. OAG Dec. 17, 1946 (242-a-18).

The commissioner determined that the interest acquired by Ottelia Hull upon the death of joint tenant Katherine Gibbs was subject to tax. Taxpayer appeals claiming decedent never acquired a proprietary interest in the property, that her interest was in the nature of an equitable mortgage to secure her for a loan made at the time the property was purchased, and the advancement had been repaid to Miss Gibbs, and taxpayer was not enriched upon decedent's death. Before a transaction of this kind can be adjudged an equitable mortgage it must appear that both parties so intended and there is no evidence of the intention of Miss Gibbs. The order of the commissioner is sustained. *Hull v Commissioner*, MBTA, June 13, 1947 (288).

Jurisdiction for inheritance taxation. 1 MLR 314.

Gross and net inheritance tax values. 2 MLR 274.

Inheritance tax and the statutory one-third interest of the surviving spouse. 2 MLR 377.

Inheritance tax; deduction for federal estate tax. 3 MLR 137.

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Joint tenancy of personal and real property; right of survivorship; effect on inheritance tax. 3 MLR 348.

Inheritance tax on life estate of widow in homestead: 5 MLR 156.

Taxation of transfers intended to take effect in possession or enjoyment at grantor's death. 7 MLR 598; 14 MLR 453, 582, 613.

Inheritance taxes relating to gifts inter-vivos in contemplation of death. 10 MLR 614.

Inheritance tax upon shares of stock owned by a non-resident in a foreign corporation doing business and having property within the state. 10 MLR 631.

Inheritance taxation of the exercise of a testamentary power of appointment. 11 MLR 371.

Inheritance tax relating to judgment recovered for breach of contract to make provision by will. 12 MLR 192; 14 MLR 430.

Constitutionality of application of federal estate tax to a tenancy by the entirety. 14 MLR 391.

Taxation on intangibles. 14 MLR 799; 16 MLR 327, 335; 17 MLR 344.

Retroactive application as applied to the inheritance tax; constitutionality. 15 MLR 726; 20 MLR 688.

Taxability of sums paid out of compromise of will contest. 16 MLR 722.

Taxability of proceeds of annuity insurance policy. 17 MLR 454.

Taxation of subject of inter-vivos transfer by decedent where rights in property transferred are not complete until death of decedent. 18 MLR 235.

Life estate with absolute power of disposal. 18 MLR 489.

Joint estates and tenancies by entireties. 20 MLR 294.

Inter-vivos transfers where donor reserves power to revoke, alter, or amend. 20 MLR 444.

Reciprocal and retaliatory legislation. 21 MLR 371.

Power of state of donee's domicile to tax transfer under power of appointment. 21 MLR 763.

Taxability of gain from sale at above appraised value. 22 MLR 122.

Validity of classification based upon time of creation of power. 22 MLR 123.

Insurance policies; payment of premiums by beneficiary; inheritance taxation. 22 MLR 441.

Jurisdiction to tax inheritance of intangibles; use of federal interpleader act to determine domicile of decedent. 22 MLR 577.

Minnesota inheritance tax procedure. 23 MLR 120.

Retroactive effect upon estate and inheritance taxes applied to joint tenancy created before their enactment. 23 MLR 547.

Power of more than one state to tax the transfer of the same intangibles. 24 MLR 136.

Inclusion of proceeds of life insurance policies in gross estate; federal estate tax. 24 MLR 963.

Insurance and annuity contracts under the federal estate tax. 25 MLR 251, 655.

Multi-state taxation of transfers of intangible personal property at death. 27 MLR 83.

Federal estate tax; power of appointment; inclusion in gross estate of property distributed under compromise agreement. 27 MLR 96.

Inheritance taxation of life insurance proceeds. 28 MLR 199.

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291.02 RATE OF TAX.

The state may not tax anything except it be within its jurisdiction; and the state may not tax testamentary transfer of property which lies wholly beyond its power. *Farmers Loan and Trust v State of Minnesota*, 50 SC 99, 280 US 204.

Inheritance tax; effect of restrictions on the sale of corporate stock upon the valuation thereof for tax purposes. 23 MLR 989.

Scope of the homestead exemption. 25 MLR 66.

Descent of homestead. 25 MLR 73.

291.03 PRIMARY RATES.

Construing section 291.06 in the light of its purpose the legislature intended to allow the exemption where property in a decedent's estate can be traced to property transferred in a prior estate, provided other requirements of the statute are met. *Commissioner v Bennett*, 219 M 449, 18 NW(2d) 238.

291.04 EXCESS RATES.

Ex. L. 1937, c. 50, validly authorizes the imposition of an inheritance or transfer tax upon the proceeds of the life insurance policy above the statutory exemption. In the instant case the transfer to relator was made after chapter 50 went into effect. *De Coster v Commissioner*, 216 M 1, 11 NW(2d) 489.

291.05 EXEMPTIONS.

Facts creating a strong probability that the widow would consent to payment of charitable bequests, which will make dependent on such consent, did not in law constitute data of such certain application and known operation as to give bequests a legal reality in will itself so as to entitle the estate to deduction of bequests in computing the estate tax. *First Trust v Reynolds*, 137 F(2d) 518.

State or municipal securities owned by a non-resident decedent when located outside the state are not subject to state inheritance tax. *Farmers Loan and Trust v State of Minnesota*, 50 SC 99, 280 US 204.

Exemption of homestead set apart to children during administration; transfer or inheritance tax. 9 MLR 168.

Exemption of bequest to foreign charitable corporation in absence of express language in the inheritance tax statute exempting it. 14 MLR 428.

Bequest to foreign charitable corporation for use wholly within the taxing state. 19 MLR 486.

Deductions of charitable bequests under the federal estate tax; certainty and ascertainable value. 30 MLR 125.

291.06 LIMITED EXEMPTION WHERE DECEDENT ACQUIRED PROPERTY WITHIN FIVE YEARS OF HIS DEATH.

Construing section 291.06 in the light of its purpose, the legislature intended to allow the exemption where property in a decedent's estate can be traced to property transferred in a prior estate, provided other requirements of the statute are met. *Commissioner v Bennett*, 219 M 449, 18 NW(2d) 238.

291.07 EXPENSES OF ADMINISTRATION.

Mere fact of prolongation of administration does not have any effect upon propriety of deduction as administration expenses in determining the estate tax, since prolongation of administration of the estate is a matter of concern purely of the court having the estate in charge. *Adams v Commissioner*, 110 F(2d) 578.

291.10 MAINTENANCE OF FAMILY IN INHERITANCE TAX CASES.

Minnesota inheritance tax procedure. 23 MLR 120.

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291.11 WHEN EFFECTIVE.

Distribution of beneficial interest. 23 MLR 125.

Transfer in contemplation of death. Motive to avoid estate tax. 30 MLR 550.

291.13 TAXES TO BE PAID TO COUNTY OR STATE TREASURER.

A county treasurer is entitled to compensation for his traveling expenses in connection with the collection of inheritance taxes and incidental duties connected with the collection, and his bill for such services should be presented to the county board in the usual manner. OAG April 26, 1944 (242-A-4).

291.18 TAX ERRONEOUSLY PAID; REFUNDMENT.

Amended by L. 1947 c. 556 s. 1.

291.19 TRANSFER BY FOREIGN EXECUTORS; PERSONAL PROPERTY OF NON-RESIDENT DECEDENT.

Subds. 5, 6, 7, repealed by L. 1947 c. 556 s. 2.

Inheritance tax on transfer of bonds. 13 MLR 273.

State jurisdiction to tax intangibles of alien non-residents. 18 MLR 743.

Situs of tangible personalty as relates to inheritance taxation. 19 MLR 603.

Reciprocal and retaliatory legislation. 21 MLR 371.

Power of more than one state to tax the transfer of the same intangibles. 24 MLR 136.

Multi-state taxation of transfers of intangible personal property at death. 27 MLR 83.

291.23 INHERITANCES, HOW APPRAISED.

Deduction of federal estate tax as it relates to state inheritance tax. 6 MLR 169.

Jurisdiction to tax intangibles. 15 MLR 254.

Creditor's claim against homestead. 21 MLR 211.

Minnesota inheritance tax procedure. 23 MLR 120.

Effect of restrictions on the sale of corporate stock upon the valuation thereof for tax purposes. 23 MLR 989.

291.26 PROBATE COURT TO REPORT TO COMMISSIONER OF TAXATION AND STATE AUDITOR.

No fee is chargeable by the judge of probate or his office employees for making reports to the commissioner of taxation. OAG Nov. 14, 1945 (347-E).

291.27 UNPAID TAX; OMITTED PROPERTY.

Amended by L. 1947 c. 519 s. 1.

291.29 REPORTS BY PROBATE JUDGE AND REGISTER OF DEEDS.

The representative of an estate may not pay a fee to the judge of probate for making a report concerning records of his office relating to estates to the commissioner of taxation. OAG Nov. 14, 1945 (347-E).

291.32 REFUNDMENT OF TAX.

Amended by L. 1947 c. 556 s. 2.

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There is nothing unconstitutional about a legislative appropriation wherewith to refund inheritance taxes improperly collected by the state. *State v Monfort*, 193 M 594, 259 NW 554.

291.34 ESTATE TAX.

Inclusion in gross estate of trust property in which beneficial life interest is reserved to the settlor as it relates to the state tax. 15 MLR 252.

Gift in contemplation of death as affecting federal estate tax; application of rate in force at donor's death instead of rate when the gift was made. 15 MLR 724.

Presumption of possibility of issue as it relates to taxation. 18 MLR 755.