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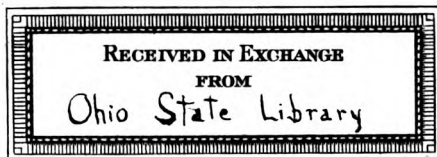
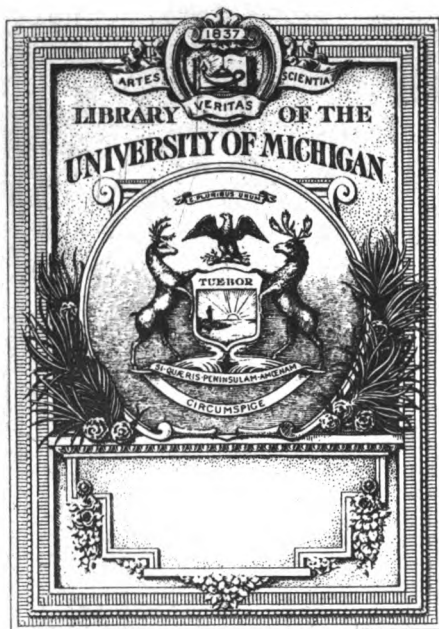
# The Inheritance Tax Law of Ohio

As effective July 8

1923

Published by

The Tax Commission  
of Ohio



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COLUMBUS, OHIO:  
THE F. J. HEER PRINTING CO.  
1923

Bound at State Bindery.

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## THE INHERITANCE TAX LAW OF OHIO.

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The direct inheritance tax law in this state, 108 O. L. 561, was signed by the governor on the 5th day of June, 1919, and went into effect immediately, being an act providing for a tax levy and hence not subject to the referendum.

It was amended by a subsequent act of the General Assembly, 108 O. L. 1192, which was filed in the office of the secretary of state on the 17th day of February, 1920. This amending act was subject to the referendum and did not go into effect until May 17th following.

In 1921 a supplementary act, 109 O. L. 521, was passed containing what was designated as Sec. 5348-11. This went into effect on September 6, 1921, and has caused a duplication of sectional numbers which the attorney general sought to avoid by numbering the new section 5348-10a.

A further amendment was made in 1923, 110 O. L. 26, which took effect on the 8th day of July, 1923.

Herewith is given a copy of the law containing all the changes made and as it was effective in Ohio on and after the last mentioned date.



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**THE SECTIONS OF THE GENERAL CODE OF OHIO PROVID-  
ING FOR INHERITANCE TAXATION OR IN ANY WAY  
RELATING THERETO**

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Sec. 1465-24a. The commission may order any officer or officers in whom any powers are vested or upon whom any duties are imposed by any laws which the commission is required to administer, to appear before it for conference concerning the administration of such laws. Excepting as provided in the next preceding section, the commission shall allow and pay from any appropriation to the commission, available for such purpose, the actual and necessary traveling expenses of each officer so appearing.

Sec. 2624. On all moneys collected by the county treasurer on any tax duplicates of the county, other than the liquor, inheritance and cigarette duplicates, the county auditor on settlement semi-annually with the county treasurer and auditor of state, shall be allowed as compensation for his service the following percentages:

On the first one hundred thousand dollars, one and one-half per cent; on the next two million dollars, five-tenths of one per cent; on the next two million dollars, four-tenths of one per cent; and on all further sums, one-tenth of one per cent. Such compensation shall be apportioned ratably by the county auditor and deducted from the shares or portions of the revenue payable to the state as well as to the county, townships, corporations and school districts.

Sec. 2624-1. On all inheritance tax moneys collected by the county treasurer, the county auditor on settlement semi-annually with the auditor of state shall be allowed as compensation for his services under the inheritance tax law the following percentages:

Three per cent on the first fifty thousand dollars; two per cent on the next fifty thousand dollars, and one-half of one per cent on all additional sums. Such percentages shall be computed upon the amount collected and reported at each semi-annual settlement, and shall be for the use of the fee fund of the county auditor.

Sec. 2685. On settlement semi-annually with the county auditor, the county treasurer shall be allowed as fees on all moneys collected by him on any tax duplicates other than the liquor, inheritance and cigarette duplicates, the following percentages:

On the first one hundred thousand dollars, one and one-half per cent; on the next two million dollars, five-tenths of one per cent; on the next two million dollars, four-tenths of one per cent; and on

all further sums, one-tenth of one per cent. Such compensation shall be apportioned ratably by the county auditor and deducted from the shares or portion of the revenue payable to the state as well as to the county, township, corporations and school district; and all moneys collected on liquor, and cigarette duplicate, one per cent, on all moneys collected otherwise than on the said duplicates, except moneys received from the state treasurer or his predecessors in office or his legal representatives or the sureties of such predecessors, and except all moneys received from the proceeds of the bonds of the county or of any municipal corporation, five-tenths of one per cent, on the amount so received, to be paid upon the warrant of the county auditor out of the general fund of the county.

Sec. 2685-1. On settlement semi-annually with the county auditor, the county treasurer shall be allowed as fees on all moneys collected by him on inheritance tax duplicates the following percentages: one per cent on the first fifty thousand dollars, five-tenths of one per cent on the next fifty thousand dollars, and one-tenth of one per cent on all additional sums. Such percentages shall be computed upon the amount collected and reported at each semi-annual settlement, and shall be for the use of the fee fund of the county treasurer.

Sec. 2689. Immediately after each semi-annual settlement with the county auditor, on demand, and presentation of the warrant of the county auditor therefor, the county treasurer shall pay to the township treasurer, city treasurer, or other proper officer thereof, all moneys in the county treasury belonging to such township, city, village, or school district.

Sec. 5331. As used in this subdivision of this chapter:

1. The words "estate" and "property" include everything capable of ownership, or any interest therein or income therefrom whether tangible or intangible, and, except as to real estate, whether within or without this state, which passes to any one person, institution or corporation, from any one person, whether by a single succession or not.
2. "Succession" means the passing of property in possession or enjoyment, present or future.
3. "Within this state", when predicated of tangible property, means physically located within this state; when predicated of intangible property, that the succession thereto is, for any purpose, subject to, or governed by the law of this state.
4. "Decedent" includes a testator, intestate, grantor, assignor, vendor or donor.
5. "Contemplation of death" means that expectation of death which actuates the mind of a person on the execution of his will.

Sec. 5332. A tax is hereby levied upon the succession to any property passing, in trust or otherwise, to or for the use of a person, institution or corporation, in the following cases:

1. When the succession is by will or by the intestate laws of this state from a person who was a resident of this state at the time of his death.

2. When the succession is by will or by the intestate laws of this state or another state or country, to property within this state, from a person who was not a resident of this state at the time of his death.

3. When the succession is to property from a resident, or to property within this state from a non-resident, by deed, grant, sale, assignment or gift, made without a valuable consideration substantially equivalent in money or money's worth to the full value of such property:

(a) In contemplation of the death of the grantor, vendor, assignor, or donor, or

(b) Intended to take effect in possession or enjoyment at or after such death.

4. Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property heretofore or hereafter made, such appointment when made shall be deemed a succession taxable under the provisions of this subdivision of this chapter in the same manner as if the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by said donee by will; and whenever any such person or corporation possessing such power of appointment shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a succession taxable under the provisions of this act shall be deemed to take place to the extent of such omission or failure, in the same manner as if the persons, institutions or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise the same, taking effect at the time of such omission or failure.

5. Whenever property is held by two or more persons jointly, 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 by the death of one of them shall be deemed a succession taxable under the provisions of this subdivision of this chapter in the same manner as if the enhanced value of the whole property belonged absolutely to the deceased person, and had been by him bequeathed to the survivor or survivors by will.

6. When a decedent appoints one or more executors or trustees, and instead of their lawful allowance makes a bequeath or devise of property to them, which would otherwise be liable to such taxes, or appoints them as residuary legatees, and such bequest, devise or residuary legacy exceeds what should be a reasonable compensation for their services, such excess shall be a succession and liable to such tax, and

the probate court having jurisdiction of their accounts shall fix such compensation.

7. When any property shall pass subject to any charge, estate or interest, determinable by the death of any person, or at any period ascertainable only by reference to death, the increase accruing to any person, institution or corporation, on the extinction and determination of such charge, estate or interest, shall be deemed a succession taxable under the provisions of this subdivision of this chapter, in the same manner as if the person, institution or corporation beneficially entitled thereto had then acquired such increase from the person from whom the title to their respective estates or interests is derived.

Such tax shall be upon the excess of the actual market value of such property over and above the exemptions made and at the rates prescribed in this subdivision of this chapter.

Sec. 5332-1. The value of any property set off and allowed to a widow and children under the provisions of section ten thousand six hundred and fifty-six of the General Code in excess of three thousand dollars, shall be deemed a succession taxable under the provisions of this subdivision of this chapter. The widow, if any, shall be deemed the successor of such entire succession; but if there be no widow, each child shall be deemed a successor of his share thereof.

Sec. 5332-2. Any transfer of property from a resident or of property within this state from a non-resident, if shown to have been made without a valuable consideration substantially equivalent in money or money's worth to the full value of such property, if so made within two years prior to the death of the transferor, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title. It shall be the duty of the persons by whom the application for determination of tax is filed to set forth in detail therein a list of all such transfers. If no such transfers have been made such fact shall be stated.

Sec. 5333. If the succession to any property from a resident of this state is locally subject in another state or country to a tax of like character and amount to that hereby levied, and if such tax be actually paid or guaranteed or secured in accordance with law in such other state or country, such succession shall not be subject to the tax hereby levied; if locally subject in any state or country to a tax of like character but of less amount than that hereby levied and such tax be actually paid or guaranteed or secured, as aforesaid, such succession shall be taxable under this subdivision of this chapter to the extent of the difference between the taxes actually paid, guaranteed or secured, and the amount for which such succession would otherwise be taxable hereunder.

Sec. 5334. The succession to any property passing to or for the use of the state of Ohio, or to or for the use of a municipal corporation

or other political subdivision thereof for exclusively public purposes, or public institutions of learning within this state, or institution of learning within any state of the United States which state does not impose an inheritance, estate or transfer tax on property given, devised or bequeathed by a resident thereof to an institution of learning within this state, or to or for the use of an institution for purposes only of public charity, carried on in whole or in substantial part within this state, shall not be subject to the provisions of the preceding sections of this subdivision of this chapter. Successions passing to other persons shall be subject to the provisions of said sections to the extent only of the value of the property transferred above the following exemptions:

1. When the property passes to or for the use of the wife or a child of the decedent who is a minor at the death of the decedent, the exemption shall be five thousand dollars.

2. When the property passes to or for the use of the father, mother, husband, adult child or other lineal descendant of the decedent, or an adopted child, or person recognized by the decedent as an adopted child and designated by such decedent as a legal heir under the provisions of a statute of this or any other state or country, or the lineal descendants thereof, or a lineal descendant of an adopted child, the exemption shall be three thousand five hundred dollars.

3. When the property passes to or for the use of a brother, or sister, niece, nephew, the wife or widow of a son, the husband of a daughter of the decedent, or to any child to whom the decedent, for not less than ten years prior to the succession stood in the mutually acknowledged relation of a parent, the exemption shall be five hundred dollars.

Sec. 5335. The rates at which such tax is levied are as follows:

1. On successions passing to any person mentioned in the first and second sub-paragraphs of the preceding section:

(a) One percentum on the excess of the value of the property over the exemptions up to and including the sum of twenty-five thousand dollars.

(b) Two percentum on the next seventy-five thousand dollars, or any part thereof;

(c) Three percentum on the next one hundred thousand dollars, or any part thereof;

(d) Four percentum on the amount representing the balance of the value of each individual succession.

2. On successions passing to any person mentioned in the third sub-paragraph of the preceding section:

(a) Five per centum on the excess of the value of the property over the exemptions up to and including twenty-five thousand dollars;

(b) Six per centum on the next seventy-five thousand dollars, or any part thereof;

(c) Seven per centum on the next one hundred thousand dollars, or any part thereof;

(d) Eight per centum on the amount representing the balance of the value of each individual succession.

3. On all successions passing to persons other than those herein-before mentioned, or to institutions or corporations:

(a) Seven per centum on the value of the property up to and including the sum of twenty-five thousand dollars;

(b) Eight per centum on the next seventy-five thousand dollars, or any part thereof;

(c) Nine per centum on the next one hundred thousand dollars, or any part thereof;

(d) Ten per centum on the amount representing the balance of the value of each individual succession.

Sec. 5336. Taxes levied under this subdivision of this chapter shall be due and payable at the time of the succession, except as herein otherwise provided, but in no case prior to the death of the decedent. Taxes upon the succession to any estate or property, or interest therein limited, dependent or determinable upon the happening of any contingency or future event, and not vested at the death of the decedent, by reason of which the actual market value thereof cannot be ascertained at the time of such death, as provided in this subdivision of this chapter, shall accrue and become due and payable when the persons or corporations then beneficially entitled thereto shall come into actual possession or enjoyment thereof. Such taxes shall be and remain a lien upon the property passing until paid, and the successor and the executors or administrators of the general estate of the decedent, and the trustees of such property shall be personally liable for all such taxes, with interest as hereinafter provided, until they shall have been paid as hereinafter directed. Such an administrator, executor or trustee, having in charge or in trust for distribution any property the succession to which is subject to such taxes, shall deduct the taxes therefrom, or collect the same from the person entitled thereto. He shall not deliver, or be compelled to deliver, any specific legacy or property, the succession to which is subject to said taxes, to any person, until he shall have collected the taxes thereon. He may sell so much of the estate of the decedent as will enable him to pay said taxes in like manner as he would be empowered to do for the payment of the debts of the decedent.

Sec. 5337. If a legacy subject to such taxes is charged upon or payable out of the real estate, the heir or devisee, before paying it, shall deduct the taxes therefrom and pay such taxes to the executor, administrator or trustee, and the taxes shall remain a charge upon the real estate

until it is paid; and the payment thereof shall be enforced by the executor, administrator or trustee, in like manner as the payment of the legacy itself may be enforced, or by the prosecuting attorney as provided in this subdivision of this chapter. If such legacy shall be given in money to a person for a limited period, such administrator, executor or trustee shall retain the tax on the whole amount; and if it be not in money he shall make an application to the court having jurisdiction of his accounts to make an ascertainment, if the case require it, of the sum to be paid into his hands by such legatee on account of the taxes, and for such further order as the case may require.

Sec.. 5338. Taxes levied by this subdivision of this chapter shall be paid to the treasurer of the county in which the court having jurisdiction of proceedings under this subdivision of this chapter is held by the person or persons charged with the payment thereof. If such taxes are not paid within one year after the accrual thereof, interest at the rate of eight per centum per annum shall thereafter be charged and collected thereon; unless by reason of claims made upon the state, necessary litigation, or other unavoidable causes of delay, such taxes cannot be determined and paid as hereinbefore provided, in which case interest at the rate of five per centum per annum shall be charged upon such taxes from the expiration of one year after the accrual thereof until the cause of such delay is removed, after which eight per centum shall be charged. If such taxes are paid before the expiration of one year after the accrual thereof, a discount of one per centum per month for each full month that payment has been made prior to the expiration of the year, shall be allowed on the amount of such taxes.

Sec. 5339. If any debts shall be proven against the general estate after the determination of inheritance tax has been made, an application for modification of such order of determination may be filed. Of this application and of the hearing thereof the tax commission shall have notice. If the court finds that the tax has not been paid and that the adjudication as made should be amended, it shall so order and shall furnish the commission with a copy of the entry of determination as amended. But if the tax as assessed has been paid the court shall make an order of refunder of such a part of the amount paid as is in excess of what should have been assessed. It shall further find the successors who are entitled to share in such refunder and the particular township or municipality against which such refunder is chargeable. Exceptions may be filed to such order of refunder by the tax commission or by any interested party and appeal or error may be prosecuted as from an original determination of tax. On receipt by the tax commission of a copy of such refunding order it may make an order confirming the same and transmit it to the probate court, which order and a copy of the order of refunder shall be filed by the court with the county auditor who shall thereupon draw his warrant for the proper amount of refund

which warrant shall be paid by the county treasurer out of any moneys in his hands to the credit of inheritance taxes. Similar proceedings for modification and refunder may be had in connection with any estate when after the assessment or payment of tax, a similar tax is assessed and paid in a foreign state or country on any of the successions taxed in this state. If after the payment of any such tax in pursuance of an order fixing the same, such order, after due notice to the tax commission and opportunity to be heard, be modified or reversed, in a manner provided by law, by the probate court having jurisdiction or by any court to which the proceeding may have been taken on appeal or error, the commission on notice from the probate court having jurisdiction, shall, unless further proceedings on appeal or error are contemplated, direct a refunder of the proper amount to be made in the same manner as herein above provided. Where it shall be shown to the satisfaction of the probate court that deductions for debts were erroneously allowed or that assets exist which were not taken into consideration when tax was determined, such court may enter an order assessing the taxes upon the amount wrongfully or erroneously deducted or upon such omitted assets.

Sec. 5340. The probate court of any county of the state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent, on the succession to whose property a tax is levied by this subdivision of this chapter, or to appoint a trustee of such estate, or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine the questions arising under the provisions of this subdivision of this chapter, and to do any act in relation thereto authorized by law to be done by a probate court in other matters or proceedings coming within its jurisdiction; and if two or more probate courts shall be entitled to exercise such jurisdiction, the court first acquiring jurisdiction hereunder shall retain the same to the exclusion of every other probate court. Such jurisdiction shall exist not only with respect to successions in which the jurisdiction of such court would otherwise be invoked, but shall extend to all cases covered by this act, to the end that succession inter vivos, taxable under the provisions of this subdivision of this chapter, may be reached thereby.

Sec. 5341. The county auditor shall be the inheritance tax appraiser for his county. The probate court, upon its own motion may, or upon the application of any interested person, including the tax commission of Ohio, shall by order direct the county auditor to fix the actual market value of any property the succession to which is subject to the tax levied by this subdivision of this chapter. Such auditor shall forthwith give notice by mail to all persons known to him to have a claim or interest in the property to be appraised, including the tax commission of Ohio, and to such persons as the probate court may by order direct, of the time and place when he will appraise such property. He shall at such



time and place appraise the same at its actual market value as of the date of the accrual of the tax, except as hereinafter provided, and subject to the rules hereinafter prescribed. Such county auditor for such purpose is hereby authorized to issue subpoenas and to compel the attendance of witnesses and the production of books and papers before him, and to examine such witnesses under oath concerning such property, the value thereof, and the nature and circumstances of the succession. Disobedience of such subpoena, or refusal to testify on such examination shall be punished as a contempt of the probate court. The county auditor shall report his findings in writing, together with the depositions of the witnesses examined, and such other facts in relation thereto as the probate court may order. Such report shall be made in duplicate; one copy thereof shall be filed with the probate court, and the other with the tax commission of Ohio.

The fees of the sheriff or other officer, serving such subpoenas, and the actual and necessary traveling and other expenses incurred by the county auditor in making the appraisalment shall be certified by the county auditor on such report. If the probate court finds such fees and expenses to be correct, he shall allow such fees, and so much of such expenses as he may find to have been reasonable, having regard to the amount of the state's share of the taxes, and certify the amount so allowed for each on the order fixing the taxes. For the purpose of this and succeeding sections of this subdivision of this chapter relating to the assessment of the tax, the entire estate of a decedent, though passing to several persons, institutions or corporations, shall be the subject of inquiry in a single proceeding.

Sec. 5342. The value of a future or limited estate, income, interest or annuity for any life or lives in being, or of any dower interest or other estate or interest upon which any estate or interest the succession to which is taxable under this chapter is limited, shall be determined by the rule, method and standard of mortality and value employed by the superintendent of insurance in ascertaining the value of annuities for the determination of liabilities of life insurance companies, except that the rate of interest shall be five per centum per annum. The superintendent of insurance shall, without a fee, on the application of any probate court or of any county auditor, determine the value of any such estate, income, interest or annuity, upon the facts contained in any such application, and other facts to him submitted by such court or auditor and certify the same in duplicate to such court or auditor, and his certificate thereof shall be conclusive evidence that the method of computation therein is correct.

In estimating the value of any estate or interest in property, to the beneficial enjoyment or possession whereof there are persons or corporations presently entitled, no allowance shall be made on account of any contingent encumbrance thereon, nor on account of any contingency upon

the happening of which the estate, or some part thereof, or interest therein, may be abridged, defeated or diminished; but in the event of such encumbrance taking effect as an actual burden upon the interest of the beneficiary, or in the event of the abridgement, defeat, or diminution of such estate, or interest therein, as aforesaid, a refunder shall be made in the manner provided by section 5339 of the General Code, to the person properly entitled thereto of a proportionate amount of such tax on account of the encumbrance when taking effect, or so much as will reduce the same to the amount which would have been assessed on account of the actual duration or extent of the estate enjoyed.

Sec. 5342-1. The present value of the remainder interest in any estate shall equal the difference between the value of the entire estate and the particular estate created therein.

Sec. 5342-2. When a person dies before tax listing day in any year the general property taxes and special assessments of former years remaining unpaid against his estate shall be allowed as a deduction when determining the value of the estate under this chapter. But when such death takes place on or after tax listing day, in addition to all unpaid general property taxes and special assessments of former years, such taxes and assessments for the year in which the death took place shall be deducted.

Sec. 5343. When, upon any succession, the rights, interests, or estates of the successors are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, a tax shall be imposed upon such successions at the highest rate which, on the happening of any such contingencies or conditions, would be possible under the provisions of this subdivision of this chapter, and such taxes shall be due and payable forthwith out of the property passing, and the probate court shall enter a temporary order determining the amount of such taxes in accordance with this section; but on the happening of any contingency whereby the said property, or any part thereof, passes so that such ultimate succession would be exempt from taxation under the provisions of this subdivision of this chapter, or taxable at a rate less than that so imposed and paid, the successor shall be entitled to a refunder of the difference between the amount so paid and the amount payable on the ultimate succession under the provisions of this chapter, without interest; and the executor or trustee shall immediately upon the happening of such contingencies or conditions apply to the probate court of the proper county, upon a verified petition setting forth all the facts, and giving at least ten days' notice by mail to all interested parties, for an order modifying the temporary order of said probate court so as to provide for a final assessment and determination of the taxes in accordance with such ultimate succession. Such refunder shall be made in the manner provided by section 5339 of the General Code.

Sec. 5344. Estates in expectancy which are contingent or defeas-

ible, and in which proceedings for the determination of the taxes have not been taken, or have been held in abeyance, shall be appraised at their full undiminished value, when the persons entitled thereto shall come into the beneficial enjoyment or possession thereof, without diminution for or on account of any valuation theretofore made of the particular estates for the purpose of this subdivision of this chapter, upon which such estates in expectancy may have been limited. An estate for life or for years which can be divested by the act or omission of the legatee, or devisee, shall be appraised and taxed as if there were no possibility of any such divesting.

Sec. 5345. From the report of appraisal and other evidence relating to any such estate before the probate court, such court shall forthwith upon the filing of such report, by order entered upon the journal thereof, find and determine, as of course, the actual market value of all estates, the amount of taxes to which the succession or successions thereto are liable, the successors and legal representatives liable therefor; and the townships or municipal corporations in which the same originated. Provided, however, that in case no application for appraisement is made the probate court may make and enter such findings and determinations without such appraisement. Thereupon the judge of such court shall immediately give such notice of such order to all persons known to be interested therein, and shall immediately forward a copy thereof to the tax commission of Ohio, together with copies of all orders entered by him in relation to or affecting in any way the taxes on such estate, including orders of exemption. The legally appointed guardian of a minor, idiot, imbecile or insane person, on behalf of his ward, may do and perform any act, matter or thing in the inheritance tax proceeding, or respecting the assessment or payment of such tax, which such ward could do if he were of age and of sound mind. If there is no such guardian the court may at any stage of the proceedings appoint a guardian ad litem for any minor, idiot, imbecile or insane person, interested therein, which guardian ad litem shall, for the purpose of the proceeding, have all the powers of a legally appointed guardian. The notice provided for in this section may be served on such guardian or guardian ad litem.

Sec. 5346. The tax commission of Ohio, or any person dissatisfied with the appraisement and determination of taxes, may file exceptions thereto in writing with the probate court within sixty days from the entry of the order, stating the grounds upon which such exceptions are taken. The probate court shall thereupon by order fix a time not less than ten days thereafter for the hearing of such exceptions, and shall give such notice thereof as it may deem necessary; provided, that a copy of such notice and of such exceptions shall be forthwith mailed to the tax commission and the county auditor. Upon the hearing of such exceptions, said court may make such order as to it may seem just and

proper in the premises. No costs shall be allowed by the probate court on such exceptions.

Sec. 5347. At the expiration of such period of sixty days if no exceptions be filed, or at any time within such period, on the application of all parties, including the tax commission of Ohio, the probate judge shall make and certify to the county auditor a copy of the order provided for in section 5345 of the General Code. If such exceptions are filed within such period the probate judge shall, within five days after the entry of the final order, make and certify such copy of the original finding and determination, together with any modifications thereof ordered upon the hearing of such exceptions.

The county auditor shall thereupon, on a form to be prescribed for him by the auditor of state, make a charge based upon such order and certify a duplicate thereof to the county treasurer, who shall collect the taxes so charged.

Sec. 5348. An appeal may be taken by any party, including the tax commission of Ohio, from the final order of the probate court under section 5346 of the General Code in the manner provided by law for appeals from orders of the probate court in other cases. An appeal by the tax commission of Ohio may be perfected in the manner provided by section 11209 of the General Code.

Sec. 5348-1. Upon the payment to the county treasurer of any tax due under this subdivision of this chapter such treasurer shall issue a receipt therefor in triplicate. One copy thereof he shall deliver to the person paying such taxes; and the original and one copy thereof he shall immediately send to the auditor of state who shall certify the original and immediately transmit it to the judge of the court fixing the tax. An executor, administrator or trustee shall not be entitled to credits in his accounts, nor be discharged from liability for such taxes, nor shall the estate under his control be distributed, unless such certified receipt shall have been filed with the court. Any person shall, upon the payment of ten cents to the county treasurer issuing such receipt, be entitled to a duplicate thereof, to be signed and certified in same manner as the original.

Sec. 5348-2. No corporation organized or existing under the laws of this state, shall transfer on its books or issue a new certificate for any share or shares of its capital stock belonging to or standing in the name of a decedent or in trust for a decedent, or belonging to or standing in the joint names of a decedent and one or more persons, without the written consent of the tax commission of Ohio. No safe deposit company, trust company, corporation, bank or other institution, person or persons, having in possession or in control or custody, in whole or in part, securities, deposits, assets or property belonging to or standing in the name of the decedent, or belonging to or standing in the joint names of a decedent and one or more persons, including the shares of the

capital stock of, or other interest in, such safe deposit company, trust company, corporation, bank or other institution, shall deliver or transfer the same to any person whatsoever whether in a representative capacity or not, or to the survivor or survivors when held in the joint names of a decedent and one or more persons, without retaining a sufficient portion or amount thereof to pay any taxes or interest which would thereafter be assessed thereon under this subdivision of this chapter, and unless notice of the time and place of such delivery or transfer be served upon the tax commission of Ohio and the county auditor at least ten days prior to such delivery or transfer; but the tax commission of Ohio may consent in writing to such delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons, from the obligation to give such notice or to retain such portion. The tax commission or the county auditor, personally or by representatives, may examine such securities, deposits or other assets at the time of such delivery or otherwise. Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons, liable for the amount of the taxes and interest due under this subdivision of this chapter on the succession to such securities, deposits, asset or property. Such liability may be enforced by action brought by the county treasurer in the name of the state in any court of competent jurisdiction.

Sec. 5348-2a. In any action brought under the preceding section it shall be a sufficient defense that the transfer of shares of capital stock, or delivery or transfer of securities, deposits, assets or property, was made in good faith, without knowledge of the death of the decedent and without knowledge of circumstances sufficient to place the defendant on inquiry.

Sec. 5348-3. If, after the expiration of eighteen months from the accrual of any tax under this subdivision of this chapter, such tax shall remain unpaid, the auditor of state shall notify the prosecuting attorney of the proper county, in writing, of such failure or neglect. If the determination of the tax has been delayed for more than one year after the accrual thereof such notice may be issued at any time after six months from the date of the order determining such tax. Such prosecuting attorney shall thereupon apply to the probate judge in the name of the county auditor on behalf of the state for a transcript of the order fixing the tax. Such transcript shall be filed in the office of the clerk of the common pleas court of the county, and the same proceedings shall be had with respect thereto as are provided by section 11659 of the General Code with respect to transcripts of judgments rendered by justices of the peace and mayors, except that the prosecuting attorney shall not be required to pay the costs thereof accruing at the time of filing the same. Thereupon the same effect shall be given to such

transcript for all purposes as is given to such transcripts of judgments of justices of the peace or mayor filed in like manner. Provided, however, that nothing in this section shall be construed to affect the date of the lien of such taxes on the property passing, nor to divest such lien before the payment of such tax in the event of failure to sue out execution within the period described by section 11663 of the General Code.

Sec. 5348-4. The prosecuting attorney shall represent the county auditor of his county in his capacity as inheritance tax appraiser when called upon by him for that purpose. He shall also represent the interests of the state in any and all proceedings under this subdivision of this chapter. The attorney general shall, when requested by the tax commission in writing, appear for the state in any such proceeding.

Sec. 5348-5. The county auditor may, and when directed by the tax commission of Ohio, shall appoint such number of deputies as the tax commission of Ohio may prescribe for him, who shall be qualified to assist him in the performance of his duties as inheritance tax appraiser under the provisions of this subdivision of this chapter.

Sec. 5348-6. The tax commission of Ohio may designate such of its examiners, experts, accountants and other assistants as it may deem necessary for the purpose of aiding in the administration of the provisions of this subdivision of this chapter; and such provisions shall be deemed and held to be a law which the tax commission is required to administer for the purposes of sections 1465-9, and 1465-12 to 1465-30, inclusive, section 1465-32, and section 1465-34 of the General Code. It shall be the duty of the tax commission of Ohio in the administration of this subdivision of this chapter to see that the proceedings provided for herein shall be instituted and carried to determination in all cases in which a tax is due hereunder.

Sec. 5348-7. In connection with the estates of decedents on the succession to which any inheritance tax is found to be due, each probate judge shall keep a docket, the form whereof shall be prescribed by the auditor of state, which shall be a public record, and in which such probate judge shall enter the name of every such decedent upon whose estate an application to him has been made for an issue of letters of administration, or letters testamentary, or ancillary letters, the date and place of death of said decedent, the estimated value of his real and personal property, the names, places of residence and relationship to him of his heirs at law, the names and places of residence of the legatees or devisees in any will of any such decedent, the amount of each legacy, and the estimated value of any real property devised therein, and to whom devised. Such entry shall be made from the data contained in the papers filed on any such application, or in any proceeding relating to the estate of the decedent. The probate judge shall also enter in such docket the amount of the personal property of any such decedent, as shown by the inventory thereof when made and filed in his office, and the returns made by the

county auditor under this subdivision of this chapter, and the value of annuities, life estates, terms of years and other property of said decedent, or given by him in his will or otherwise, as fixed by the probate court, and the taxes assessed thereon, and the township of municipal corporation in which the same originated, and the amounts of any receipts for payment of any taxes on the estate of such decedent under this subdivision of this chapter, filed with him. The auditor of state shall also prescribe forms for the reports to be made by each probate judge and county auditor, which shall correspond with the entries to be made in such docket.

Sec. 5348-8. Each probate judge shall make a report monthly to the auditor of state, upon a form prescribed by such auditor. Such report shall contain all the matters required to be entered on the docket provided for in the foregoing section and shall be filed at such date in each month as may be required by the auditor of state. The reports made in the months of February and August of each year shall be filed by each probate judge at the same time that the county auditor of his county makes his semi-annual settlement.

Sec. 5348-8a. On the first day of January and first day of July annually the county recorder of each county in the state shall make report to the tax commission of Ohio, on a form prescribed by such commission, containing a statement of any deed or other conveyance of property filed in his office during the preceding six months, which appears to have been made in contemplation of death, or intended to take effect in possession or enjoyment after the death of the grantor or vendor, with the name and place of residence of such grantor or vendor, the name and place of residence of the grantee or vendee, and a description of the property transferred.

Sec. 5348-9. The county treasurer shall keep an account showing the amount of all taxes and interest by him received under the provisions of this subdivision of this chapter. On the twenty-fifth day of February and the twentieth day of August of each year he shall settle with the county auditor for all such taxes and interest so received at the time of making such settlement, not included in any preceding settlement, showing for what estate, and by whom and when paid. At each such settlement the auditor shall allow to the treasurer and himself on the moneys so collected and accounted for by him, their respective fees, at the percentages allowed by law. The correctness thereof, together with a statement of the fees allowed at such settlement and the fees and expenses allowed to the probate judge and other officers under this subdivision of this chapter shall be certified by the county auditor.

Sec. 5348-10. Such fees as are allowed by law to the probate judge for services performed under the provisions of this subdivision of this chapter, shall be fixed in each case and certified by him on the order fixing the taxes, together with the fees of the sheriff or other officers

and the expenses of the county auditor. The county auditor shall pay such fees and expenses out of the state's share of the undivided inheritance taxes in the county treasury and draw his warrants on the treasurer in favor of the fee funds or officers personally entitled thereto, payable from such taxes, as the case may require.

Sec. 5348-11. (5348-10a.) For services performed by him under the provisions of this chapter each probate judge shall be allowed a fee of five dollars in each inheritance tax proceeding in his court in which tax is assessed and collected and a fee of three dollars in each such proceeding in which no tax is found, which fees shall be allowed and paid to such judges as the other costs in such proceedings are paid but are to be retained by them personally as compensation for the performance by them of the additional duties imposed on them by this chapter. Provided always, however, that the amount paid to any probate judge under this section shall in no case exceed the sum of three thousand dollars in any one year.

Sec. 5348-11. Fifty per centum of the gross amount of any taxes levied and paid under the provisions of this subdivision of this chapter shall be for the use of the municipal corporation or township in which the tax originates, and shall be credited, one-half to the sinking fund, if any, of such municipal corporation or township, and the residue to the general revenue fund thereof; the remainder of such taxes, after deducting the fees and costs charged against the proceeds thereof under this subdivision of this chapter, shall be for the use of the state, and shall be paid into the state treasury to the credit of the general revenue fund therein.

Sec. 5348-12. At each semi-annual settlement provided for under this subdivision of this chapter, the county auditor shall certify to the auditor of any other county in which may be located in whole or in part, any municipal corporation or township, to which any part of the taxes collected under this subdivision of this chapter, and not previously accounted for, is due, a statement of the amount of such taxes due to each municipal corporation or township in such county entitled to share in the distribution thereof. The amount respectively due upon such settlement to each such municipal corporation or township, and to each municipality and township in the county in which the taxes are collected shall be paid upon the warrant of the county auditor to the treasurer or other proper officer of such municipal corporation or township. The amount of any refunder chargeable against any such municipal corporation or township at the time of making such settlement, shall be adjusted in determining the amount due to such municipal corporation or township at such settlement; provided, however, that if the municipal corporation or township against which such refunder is chargeable is not entitled to share in the fund to be distributed at such settlement, the county auditor shall draw his warrant for the amount thereof in favor



of the county treasurer payable from any undivided general taxes in the possession of such treasurer, unless such municipal corporation or township is located in another county, in which event the county auditor shall issue a certificate for such amount to the auditor of the proper county, who shall draw a like warrant therefor payable from any undivided general taxes in the possession of the treasurer of such county; and in either case at the next semi-annual settlement of such undivided general taxes, the amount of such warrant shall be deducted from the distribution of taxes of such municipal corporation or township and charged against the proceeds of levies for the general revenue fund of such municipal corporation or township.

Sec. 5348-13. When the property passing is real estate or tangible personal property within this state the tax on the succession thereto shall be deemed to have originated in the municipal corporation or township in which such property is physically located. In case of real estate located in more than one municipal corporation or township the tax on the succession thereto, or to any interest therein, shall be apportioned between the municipal corporation or townships in which it is located in the proportions in which the tract is assessed for general property taxation in such townships or municipal corporations respectively.

Sec. 5348-14. The tax on the succession to intangible property or tangible personal property not within this state from a resident of this state shall be deemed to have originated in the municipal corporation or township in which the decedent resided.

The municipal corporation or township in which the tax on the succession to the intangible property of a non-resident accruing under the provisions of this subdivision of this chapter, shall be deemed to have originated, shall be determined as follows:

1. In the case of shares of stock in a corporation organized or existing under the laws of this state, such taxes shall be deemed to have originated in the municipal corporation or township in which such corporation has its principal place of business in this state.

2. In case of bonds, notes, or other securities or assets, in the possession or in the control or custody of a corporation, institution or person in this state, such taxes shall be deemed to have originated in the municipal corporation or township in which such corporation, institution or person had the same in possession, control or custody at the time of the succession.

3. In the case of moneys on deposit with any corporation, bank, or other institution, person or persons, such tax shall be deemed to have originated in the municipal corporation or township in which such corporation, bank or other institution had its principal place of business, or in which such person or persons resided at the time of such succession.

SECTION 4. This act shall not affect pending proceedings for the assessment and collection of collateral inheritance taxes under the original

sections hereby amended; nor the duty to pay, nor the right to collect any such tax which has accrued prior to the approval of this act, nor the rights or duties of any officer with respect to the assessment and collection of such collateral inheritance taxes; nor shall this act affect successions taking place prior to its approval, whether the death of the decedent occurred prior to such approval or not; but all successions occurring subsequently to the approval of this act shall be affected by and taxable under it, whether the death of the decedent occurred prior to its approval or not, unless a tax has already accrued thereon under the provisions of the original sections hereby amended.

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