

LC00007

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

A N A C T

RELATING TO TAXATION -- INHERITANCE TAX

Introduced By: Representatives Mumford, Long, Amaral, Moffitt, and Story

Date Introduced: January 09, 2003

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-22 of the General Laws entitled "Estate and Transfer Taxes -
2 Liability and Computation" is hereby repealed in its entirety.

3 CHAPTER 44-22

4 Estate and Transfer Taxes—Liability and Computation

5 ~~44-22-1. Tax on net estate of decedents -- Additional tax on postponed enjoyment --~~
6 ~~Deductions -- Marital deduction. ---~~ (a) A tax is imposed upon the transfer of the net estate of
7 every resident or nonresident decedent as a tax upon the right to transfer. The tax is imposed at
8 the rate of two percent (2%) upon all amounts not in excess of twenty five thousand dollars
9 (\$25,000); at the rate of three percent (3%) upon all amounts in excess of twenty five thousand
10 dollars (\$25,000) and not exceeding fifty thousand dollars (\$50,000); at the rate of four percent
11 (4%) upon all amounts in excess of fifty thousand dollars (\$50,000) and not exceeding one
12 hundred thousand dollars (\$100,000); at the rate of five percent (5%) upon all amounts in excess
13 of one hundred thousand dollars (\$100,000) and not exceeding two hundred fifty thousand dollars
14 (\$250,000); at the rate of six percent (6%) upon all amounts in excess of two hundred fifty
15 thousand dollars (\$250,000) and not exceeding five hundred thousand dollars (\$500,000); at the
16 rate of seven percent (7%) upon all amounts in excess of five hundred thousand dollars
17 (\$500,000) and not exceeding seven hundred fifty thousand dollars (\$750,000); at the rate of eight
18 percent (8%) upon all amounts in excess of seven hundred fifty thousand dollars (\$750,000) and
19 not exceeding one million dollars (\$1,000,000); at the rate of nine percent (9%) upon all amounts

1 ~~in excess of one million dollars (\$1,000,000); provided, that an additional tax is imposed at the~~
2 ~~rate of two percent (2%) upon all or any part of each estate devised, bequeathed, or conveyed in~~
3 ~~such manner that it becomes necessary to postpone the assessment of taxes imposed by this~~
4 ~~chapter until the person entitled to the estate comes into beneficial enjoyment or possession of the~~
5 ~~estate; and provided, further, that an additional tax is not assessed and collected, as provided in~~
6 ~~sections 44-23-9 — 44-23-12, in case a settlement of taxes is effected under the provisions of~~
7 ~~section 44-23-25.~~

8 ~~(b) In computing the value of the net estate in subsection (a), there is deducted from the~~
9 ~~estate and exempted from the tax twenty five thousand dollars (\$25,000).~~

10 ~~(c) In computing the value of the net estate in subsection (a), there is deducted from the~~
11 ~~estate and exempted from the tax all property or interests transferred to any corporation,~~
12 ~~association, or institution located in Rhode Island which is exempt from taxation by charter or~~
13 ~~under the laws of this state; or to any corporation, association, or institution located outside this~~
14 ~~state, which if located within this state, would be exempt from taxation; provided, that the state of~~
15 ~~domicile of the corporation, association, or institution allows a reciprocal exemption to any~~
16 ~~similar Rhode Island corporation, association, or institution; or to any person in trust for the same~~
17 ~~or for use by the same for charitable purposes; or to any city or town in this state for public~~
18 ~~purposes.~~

19 ~~(d) In computing the value of the net estate in subsection (a), there is deducted from the~~
20 ~~estate and exempted from the tax United States civil and federal military service annuity~~
21 ~~payments.~~

22 ~~(e) In computing the value of the net estate in subsection (a), there is deducted from the~~
23 ~~estate and exempted from the estate tax a marital deduction, as defined in 26 U.S.C. section 2056~~
24 ~~as amended, in the amount of one hundred seventy five thousand dollars (\$175,000), from~~
25 ~~property or beneficial interests which pass or have passed from the decedent to the surviving~~
26 ~~spouse, but only to the extent that the interests are included in determining the value of the gross~~
27 ~~estate.~~

28 ~~(f) (1) In computing the value of the net estate in subsection (a), there is deducted from~~
29 ~~the estate and exempted from the estate tax, an orphan's deduction, provided, that:~~

30 ~~(i) The decedent does not have a surviving spouse, and~~

31 ~~(ii) The decedent is survived by a minor child who, immediately after the death of the~~
32 ~~decedent, has no known parent, an amount equal to the value of any interest in property which~~
33 ~~passes or has passed from decedent to the child, but only to the extent that the interest is included~~
34 ~~in determining the value of the gross estate. The aggregate amount of the deductions allowed~~

1 under this section (computed without regard to this subsection) with respect to interests in
2 property passing to any minor child shall not exceed an amount equal to five thousand dollars
3 (\$5,000) multiplied by the excess of twenty one (21) over the age (in years) which the child has
4 attained on the date of the decedent's death.

5 ~~(2) For purposes of this subdivision, any term used in the subdivision has the same~~
6 ~~meaning as when used in a comparable context in 26 U.S.C. section 2057 as amended unless a~~
7 ~~different meaning is clearly required.~~

8 ~~(g) Notwithstanding any other provisions of this chapter, the total estate tax payment on~~
9 ~~account of the estate of a decedent whose death occurs on or after January 1, 1986, is that~~
10 ~~percentage of the estate tax which would be payable under this chapter determined in accordance~~
11 ~~with the following schedule:~~

12 ~~(1) Death prior to January 1, 1987. — Ninety percent (90%) in the case of decedents~~
13 ~~whose deaths occur on or after January 1, 1986, and prior to January 1, 1987;~~

14 ~~(2) Death prior to January 1, 1988. — Eighty percent (80%) in the case of decedents~~
15 ~~whose deaths occur on or after January 1, 1987, and prior to January 1, 1988;~~

16 ~~(3) Death prior to January 1, 1989. — Sixty percent (60%) in the case of decedents whose~~
17 ~~deaths occur on or after January 1, 1988, and prior to January 1, 1989;~~

18 ~~(4) Death prior to January 1, 1990. — Forty percent (40%) in the case of decedents whose~~
19 ~~deaths occur on or after January 1, 1989, and prior to January 1, 1990;~~

20 ~~(5) Death prior to June 1, 1990. — Twenty percent (20%) in the case of decedents whose~~
21 ~~deaths occur on or after January 1, 1990, and prior to June 1, 1990;~~

22 ~~(6) Death prior to January 1, 1992. — Forty percent (40%) in the case of decedents whose~~
23 ~~deaths occur on or after June 1, 1990, and prior to January 1, 1992.~~

24 ~~(7) Death on or after January 1, 1992. — The estate tax payable on or account of the~~
25 ~~estate of a decedent whose death occurs on or after January 1, 1992, is determined in accordance~~
26 ~~with section 44 22 1.1.~~

27 ~~(h) Provided, that the estate tax payable under this section shall in no event be less than~~
28 ~~the estate tax due under section 44 22 1.1, computed without regard to the date of death.~~

29 **44 22 1.1. Tax on net estate of decedent.** ~~— (a) (1) For decedents whose death occurs on~~
30 ~~or after January 1, 1992, but prior to January 1, 2002, a tax is imposed upon the transfer of the net~~
31 ~~estate of every resident or nonresident decedent as a tax upon the right to transfer. The tax is a~~
32 ~~sum equal to the maximum credit for state death taxes allowed by 26 U.S.C. section 2011.~~

33 ~~(2) For decedents whose death occurs on or after January 1, 2002, a tax is imposed upon~~
34 ~~the transfer of the net estate of every resident or nonresident decedent as a tax upon the right to~~

1 ~~transfer. The tax is a sum equal to the maximum credit for state death taxes allowed by 26 U.S.C.~~
2 ~~section 2011 as it was in effect as of January 1, 2001, provided, however, any scheduled increase~~
3 ~~in the unified credit provided in 26 U.S.C. section 2010 in effect on January 1, 2001, or~~
4 ~~thereafter, shall not apply.~~

5 ~~(b) If the decedent's estate contains property having a tax situs not within the state, then~~
6 ~~the tax determined by this section is reduced to an amount determined by multiplying the tax by a~~
7 ~~fraction whose numerator is the gross estate excluding all property having a tax situs not within~~
8 ~~the state at the decedent's death and whose denominator is the gross estate. In determining the~~
9 ~~fraction, no deductions are considered and the gross estate is not reduced by a mortgage or other~~
10 ~~indebtedness for which the decedent's estate is not liable.~~

11 ~~(c) (1) The terms "gross estate" or "federal gross estate" used in this chapter or chapter~~
12 ~~23 of this title has the same meaning as when used in a comparable context in the laws of the~~
13 ~~United States, unless a different meaning is clearly required by the provisions of this chapter or~~
14 ~~chapter 23 of this title. Any reference in this chapter or chapter 23 of this title to the Internal~~
15 ~~Revenue Code or other laws of the United States means the Internal Revenue Code of 1954, 26~~
16 ~~U.S.C. section 1 et seq.~~

17 ~~(2) For decedents whose death occurs on or after January 1, 2002 the terms "gross estate"~~
18 ~~or "federal gross estate" used in this chapter or chapter 23 of this title has the same meaning as~~
19 ~~when used in a comparable context in the laws of the United States, unless a different meaning is~~
20 ~~clearly required by the provisions of this chapter or chapter 23 of this title. Any reference in this~~
21 ~~chapter or chapter 23 of this title to the Internal Revenue Code or other laws of the United States~~
22 ~~means the Internal Revenue Code of 1954, 26 U.S.C. section 1 et seq., as they were in effect as of~~
23 ~~January 1, 2001.~~

24 ~~(d) All values are as finally determined for federal estate tax purposes.~~

25 ~~(e) Property has a tax situs within the state of Rhode Island:~~

26 ~~(1) If it is real estate or tangible personal property and has actual situs within the state of~~
27 ~~Rhode Island; or~~

28 ~~(2) If it is intangible personal property and the decedent was a resident.~~

29 ~~**44-22-2. Exemption -- Missing persons in military action.** -- An estate of a serviceman~~
30 ~~or servicewoman who has been classified by the armed forces of the United States as missing in~~
31 ~~action is exempt from provisions of this chapter pertaining to taxation.~~

32 ~~**44-22-3. -- 44-22-25. [Repealed.]** --~~

33 ~~**44-22-26. [Renumbered.]** --~~

34 SECTION 2. Chapter 44-23 of the General Laws entitled "Estate and Transfer Taxes -

1 Enforcement and Collection" is hereby repealed in its entirety.

2 CHAPTER 44-23

3 Estate and Transfer Taxes—Enforcement and Collection

4 ~~**44-23-1. Statements filed by executors, administrators and heirs at law.**~~ (a) Every
5 executor, administrator, and heir at law shall, within nine (9) months after the death of the
6 decedent, shall file with the tax administrator a statement under oath showing the full and fair
7 cash value of the estate, the amounts paid out from the estate for claims, expenses, charges, and
8 fees, and the statement shall also provide the names and addresses of all persons entitled to take
9 any share or interest of the estate as legatees or distributees of the estate.

10 ~~(b) A fee of twenty five dollars (\$25.00) is paid when filing any statement required by~~
11 ~~this section. All fees received under this section are allocated to the tax administrator for~~
12 ~~enforcement and collection of taxes.~~

13 ~~**44-23-2. Statements filed by trustees.**~~ Whenever any person during his or her life
14 appoints a trustee, naming that person or others as beneficiaries, and providing for the
15 administration of the trust after his or her death, or providing for a termination of the trust and a
16 distribution of the trust estate or any part of the trust estate at his or her death, any person acting
17 as the trustee or any trustee of property subject to a power of appointment, shall, within thirty
18 (30) days after the death of the creator of the trust, or within thirty (30) days after the death of the
19 donee of the power, file with the tax administrator a sworn statement showing the trust
20 agreement, if any, the full and fair cash value of the trust estate, the extent of the duration of the
21 trust, the manner provided for its termination, the names and addresses of the beneficiaries of the
22 trust, and any other information relating to the trust which the tax administrator may deem
23 necessary for the proper assessment of the tax on the estate.

24 ~~**44-23-3. Extension of time for filing of statement.**~~ The tax administrator has
25 authority to grant extensions of time corresponding to the approved extension granted by the
26 Internal Revenue Service for the filing of federal form 706 within which any statement is required
27 to be filed upon written application of the executor, administrator, heir at law, or trustee desiring
28 an extension, and it is the duty of the executor, administrator, heir at law, or trustee, to file the
29 statement within the extension of time granted.

30 ~~**44-23-4. Declarations under penalties of perjury.**~~ The oath or affirmation required
31 by the provisions of this chapter as to any report or written statement is not required if the report
32 or statement to be sworn to contains or is verified by a written declaration that it is made under
33 the penalties of perjury; and whoever signs or issues any report or statement containing or
34 verified by a written declaration is, if the report or statement is willfully false, guilty of perjury.

1 ~~**44-23-5. Appraisal of estate.** -- If any statement filed in accordance with the provisions~~
2 ~~of this chapter is considered to be an erroneous or incomplete statement of the property, real,~~
3 ~~tangible personal, intangible personal, or of any part of the property, of the decedent, the tax~~
4 ~~administrator shall give notice to the executor, administrator, heir at law, beneficiary, or trustee~~
5 ~~filing the statement, to appear before the administrator for the purpose of examination of and~~
6 ~~concerning the statement, and concerning all matters appertaining to the estate and the value of~~
7 ~~the estate of the decedent; and if the executor, administrator, heir at law, beneficiary, or trustee~~
8 ~~fails to appear after due notice, or if after appearance and examination of the executor,~~
9 ~~administrator, heir at law, beneficiary, or trustee the tax administrator still considers the~~
10 ~~statement to be an erroneous or incomplete statement, or if the executor, administrator, heir at~~
11 ~~law, beneficiary, or trustee refuses or neglects to answer the questions propounded in reference to~~
12 ~~the statement, the tax administrator may appraise the estate. The tax administrator shall give~~
13 ~~notice by mail to the executor, administrator, heir at law, beneficiary, or trustee and to all persons~~
14 ~~known to have a claim or interest in the estate or property to be appraised, of the time and place~~
15 ~~of the appraisal, and the tax administrator or his or her authorized agent shall at that time and~~
16 ~~place appraise the estate or property at its full and fair cash value as prescribed in this section; and~~
17 ~~for that purpose the tax administrator is authorized to issue subpoenas and to compel the~~
18 ~~attendance of witnesses and to take the evidence of the witnesses under oath if necessary,~~
19 ~~concerning the estate or property and the value of the estate, and the witnesses shall receive the~~
20 ~~same fees as those now paid to witnesses subpoenaed to attend the superior court. From the~~
21 ~~appraisal and other proof relating to the estate or property, the tax administrator determines the~~
22 ~~full and fair cash value of the estate or property upon which all taxes imposed by chapter 22 of~~
23 ~~this title are computed and the amount of taxes to which it is liable. If no appraisal is made as~~
24 ~~provided in this section, the tax administrator may determine the value of the property upon~~
25 ~~which all the taxes are computed and the amount of taxes to which it is liable.~~

26 ~~**44-23-6. Notice by probate clerk of grant of letters on estate.** -- Every probate clerk~~
27 ~~shall, within thirty (30) days after the granting of letters testamentary or letters of administration~~
28 ~~upon any estate, notify the tax administrator of the name of the decedent, the name and address of~~
29 ~~the executor, administrator, or trustee appointed, and the amount of the bond required by the~~
30 ~~court; and shall also furnish upon request certified copies of documents and any further~~
31 ~~information from the records and files of his or her office in regard to the estate that the tax~~
32 ~~administrator may from time to time require.~~

33 ~~**44-23-7. Fees of probate clerk.** -- The probate clerk furnishing the information required~~
34 ~~by section 44-23-6 is paid out of any money appropriated for expenses of tax administration a fee~~

1 of fifteen cents (15/c) for every hundred words of copy, but the tax administrator may in his or
2 her discretion make copies of the documents or of any other records of the probate court, and if
3 the copies are found by the probate clerk to be correct the clerk shall certify to their correctness
4 and be paid a fee of twenty five cents (25/c) for each certification. All fees paid to a probate clerk
5 under this section are disposed of in the same manner as is provided for the disposition of other
6 probate fees under the provisions of chapter 22 of title 33.

7 **44-23-8. Estates where no will has been offered or letters granted.** -- If upon the
8 decease of a person leaving an estate liable to a tax under the provisions of chapter 22 of this title,
9 a will disposing of the estate is not offered for probate or an application for administration is not
10 made within three (3) months after the decease, the tax administrator may in his or her discretion,
11 with the approval of the attorney general, agree with the persons interested in the estate as to the
12 value of the estate and the amount of the tax to be assessed on the estate, or the administrator may
13 apply to the probate court for the appointment of an administrator of the estate, and the probate
14 court upon the application shall appoint an administrator of the estate.

15 **44-23-9. Assessment and notice of estate tax -- Collection powers -- Lien.** -- The tax
16 imposed by section 44-22-1.1 is assessed upon the full and fair cash value of the net estate
17 determined by the tax administrator as provided in this chapter and notice of the amount of the
18 tax is mailed to the executor, administrator, or trustee, but failure to receive the notice does not
19 excuse the nonpayment of or invalidate the tax. The tax administrator receives and collects the
20 assessed taxes in the same manner and with the same powers as are prescribed for and given to
21 the collectors of taxes by chapters 7 -- 9 of this title. The tax is due and payable as provided in
22 section 44-23-16, shall be paid to the tax administrator, and shall be and remain a lien upon the
23 estate until it is paid, and all executors, administrators, and trustees are personally liable for the
24 tax until it is paid.

25 **44-23-9.1. Hearing by administrator on application.** -- An executor, administrator,
26 trustee, legatee or other person aggrieved by a final assessment of the tax administrator as to the
27 amount of the tax imposed by chapter 22 of this title on any estate or any part of the estate shall
28 notify the tax administrator, in writing, within thirty (30) days from the date of mailing by the tax
29 administrator of the notice of the final assessment or date tax is due, whichever is later, and shall
30 request a hearing relative to the tax; and the tax administrator shall, as soon as practicable, fix a
31 time and place for the hearing and shall, after the hearing, determine the correct amount of the
32 tax, interest, and penalties.

33 **44-23-10. Deposit with administrator to cover taxes.** -- An executor, administrator, or
34 trustee may deposit with the tax administrator a sum of money sufficient in the opinion of the tax

1 administrator to pay all taxes which may become due under the provisions of chapter 22 of this
2 title. When the taxes have been determined, the general treasurer shall, upon certification by the
3 tax administrator and with the approval of the controller, repay to the executor, administrator, or
4 trustee the difference between the determined taxes and the amount deposited, or the tax
5 administrator shall collect any deficiency in the tax. The lien upon the estate imposed under
6 section 44-23-9 is discharged by the acceptance of the deposit.

7 ~~**44-23-11. Tentative assessment.**~~ -- At the request of an executor, administrator, or
8 trustee the tax administrator may make a tentative assessment of taxes under the provisions of
9 sections 44-22-1 and 44-22-1.1, whichever section is in effect at the time, to prevent interest
10 charges on the amount of the tentative assessment, and shall accept payment of that sum, and
11 when the taxes have been finally determined the general treasurer shall, upon certification by the
12 tax administrator and with the approval of the controller, repay to the executor, administrator, or
13 trustee the difference between the taxes so determined and the amount of the tentative assessment
14 or the tax administrator shall collect any deficiency in the taxes together with interest on the
15 deficiency, if any be due.

16 ~~**44-23-12. Recording of lien against real estate -- Discharge.**~~ -- Whenever a statement
17 is filed with the tax administrator showing the ownership of real property, the tax administrator
18 shall notify the recorder of deeds or the town clerk of the city or town, as the case may be, in
19 which the real property is located, and the recorder of deeds shall note in the land records of his
20 or her office the decedent's name, and the fact that all real property belonging to the decedent is
21 impressed with a lien under the provisions of this chapter. Upon the discharge of the lien, the tax
22 administrator shall send the recorder of deeds a further notice showing the discharge and the
23 manner of the discharge. The recorder of deeds is paid out of any money appropriated for
24 expenses of tax administration, a fee of one dollar and fifty cents (\$1.50) for a completed entry.

25 ~~**44-23-13. Assessment and notice of transfer tax -- Collection powers -- Lien on**~~
26 ~~**property.**~~ -- (a) All taxes imposed by section 44-22-1.1 are assessed by the tax administrator
27 upon the full and fair cash value of the property transferred at the rates described in chapter 22 of
28 this title and only upon the amount in excess of the exemptions or deductions specified in that
29 chapter, to be paid to the tax administrator, and all executors, administrators, or trustees are
30 personally liable for any and all taxes until they are paid. Notice of the amount of the taxes is
31 mailed to the executor, administrator or trustee liable for the taxes, and upon request made to the
32 tax administrator to any other person by whom the taxes are payable, but failure to receive the
33 notice does not excuse the nonpayment of or invalidate the taxes; and unless appeal is taken from
34 the assessment, as provided in this chapter, the amount of assessed taxes is final.

1 ~~(b) The tax administrator receives and collects the assessed taxes in the manner and with~~
2 ~~the powers prescribed and given to the collectors of taxes by chapters 7—9 of this title. Payment~~
3 ~~of the certified amount is a discharge of the tax.~~

4 ~~(c) The taxes are and remain a lien upon the property transferred, and upon all property~~
5 ~~acquired by the executor, administrator or trustee in substitution for the property while that~~
6 ~~property remains in his or her hands until the taxes are paid, but the lien does not affect any~~
7 ~~tangible personal property or intangible personal property after it has passed to a bona fide~~
8 ~~purchaser for value; provided, that nothing contained in this section gives the owner of any~~
9 ~~securities specified in section 44-23-34 the right to have the securities transferred to the owner by~~
10 ~~the corporation, association, company or trust issuing the securities, until the permit required by~~
11 ~~section 44-23-34 has been filed as provided in section 44-23-34.~~

12 ~~**44-23-14. Discharge of lien on real estate -- Liability of heir or devisee.** -- The lien~~
13 ~~imposed under section 44-23-13 upon any real estate or separate parcel of real estate may be~~
14 ~~discharged by the payment of all taxes due and to become due upon the real estate or separate~~
15 ~~parcel, or by an order of the tax administrator transferring the lien to other real estate owned by~~
16 ~~the person to whom the real estate or separate parcel of the real estate passes, or by the~~
17 ~~acceptance of the surety for the payment of taxes which the tax administrator may approve. The~~
18 ~~heir, devisee, or other donee is personally liable for the tax on the real estate, as well as the~~
19 ~~executor, administrator, or trustee; and if the executor, administrator, or trustee pays the tax he or~~
20 ~~she shall, unless the tax is made an expense of administration by the will or other instrument of~~
21 ~~the decedent, have the right to recover the tax from the heir, devisee, or other donee of the real~~
22 ~~estate.~~

23 ~~**44-23-15. Taxes as debt to state.** -- The taxes imposed under the provisions of chapter~~
24 ~~22 of this title, together with all penalties, charges and interest shall also become, from the time~~
25 ~~the taxes are due and payable, a debt to the state of Rhode Island from the person or corporation~~
26 ~~liable for the payment of the taxes.~~

27 ~~**44-23-16. Time taxes due -- Interest and additions to tax on delinquent payments.** --~~
28 ~~All taxes imposed by chapter 22 of this title, unless provided, are due and payable nine (9)~~
29 ~~months after the date of death of the decedent. If the taxes are not paid within nine (9) months~~
30 ~~from the date of death, interest shall be charged and collected at the annual rate provided by~~
31 ~~section 44-1-7, as amended, from the time the tax is due, determined without regard to any~~
32 ~~extension of time for payment. In addition, if the taxes are not paid when due (determined with~~
33 ~~regard to any extension of time for payment), there is added to the amount of tax due five tenths~~
34 ~~percent (0.5%) of the tax per month to a maximum of twenty five percent (25%) unless it is~~

1 shown that the failure to pay is due to reasonable cause and not due to willful neglect.

2 ~~**44-23-16.1. Interest on overpayments.**~~ -- If it is determined that any overpayment has
3 been made with respect to taxes imposed by chapter 22 of this title, the amount of the
4 overpayment bears interest at the annual rate established by section 44-1-7.1, as amended. The
5 acceptance of the check shall be without prejudice to any right of the taxpayer to claim any
6 additional overpayment and interest.

7 ~~**44-23-17. Suspension of tax payment pending claim against estate.**~~ -- Whenever it is
8 necessary in the settlement of any estate to retain property or funds for the purpose of paying the
9 claim of any creditor, the amount or validity of which is contested and is not determined, the
10 payment of the whole or a proportionate part of the tax may be suspended, by and with the
11 approval of the tax administrator, to await the disposition of the claim.

12 ~~**44-23-18. Extension of time for payment of additional estate tax.**~~ -- Whenever the tax
13 administrator finds that the payment of the tax imposed by section 44-22-1.1 causes undue
14 hardship the administrator may, in his or her discretion, with the approval of the attorney general
15 and by agreement with the executor, administrator, or trustee, extend the time for payment of the
16 whole or any part of the tax for a period not to exceed four (4) years from the date the tax is due
17 and payable, and may provide for payment in installments. In that case the amount in respect of
18 which the extension is granted shall be paid with or without interest, on or before the date of the
19 expiration of the period of the extension.

20 ~~**44-23-19.**~~ -- ~~**44-23-22. [Repealed.]**~~ --

21 ~~**44-23-23. Sale of property to pay tax.**~~ -- Every executor, administrator, or trustee has
22 full power to sell, upon application to the probate court, so much of the property of the decedent
23 as will enable him or her to pay any tax imposed by chapter 22 of this title in the manner he or
24 she might be entitled by law to do for the payment of the debts of the testator or intestate.

25 ~~**44-23-24. Refusal to furnish information or obey subpoena.**~~ -- If any executor,
26 administrator, heir at law, or trustee, probate clerk or other person neglects or refuses to file as
27 required by the provisions of this chapter any statement or to furnish any other information
28 required by this chapter to be furnished, or neglects or refuses to comply with any subpoena
29 issued under the authority of section 44-23-5, the tax administrator may apply to the sixth
30 division of the district court, upon proof by affidavit of the neglect or refusal, for an order
31 returnable in not less than two (2) nor more than five (5) days, directing the person charged in the
32 affidavit with the neglect or refusal to show cause before the judge who made the order, or any
33 other judge of the court, why the person should not be adjudged in contempt. Upon the return of
34 the order, the judge before whom the matter is brought on for hearing shall examine under oath

1 the person, and the person shall be given an opportunity to be heard, and if the judge determines
2 that the person has without reasonable cause been guilty of the neglect or refusal complained of,
3 the judge may immediately commit the offender to the adult correctional institutions, there to
4 remain until the offender submits to file the statement required or to furnish the information
5 required, or to obey the subpoena, as the case may be, or is discharged according to law, or the
6 judge may make any other order in the premises that the circumstances of the case may seem to
7 the judge to require, and may from time to time alter, amend or suspend any order entered by the
8 judge under this section. Notwithstanding anything contained in this section or in section 44-23-5,
9 whenever any executor, administrator, heir at law, trustee, or other person liable for any tax
10 imposed under the provisions of chapter 22 of this title, refuses or neglects to furnish any
11 information which in the opinion of the tax administrator is necessary for the proper computation
12 of the taxes payable under that chapter, after having been requested so to do, the tax administrator
13 may in his or her discretion assess and collect the taxes at the highest rate at which they could in
14 any event be computed. A party aggrieved by an order of the court may appeal the order to the
15 supreme court in accordance with the procedures contained in the rules of appellate procedure of
16 the supreme court.

17 **44-23-25. Settlement of taxes due.** -- The tax administrator, with the approval of the
18 attorney general, may effect a settlement of the amount of any taxes imposed by chapter 22 of this
19 title as they deem to be for the best interests of the state, and the payment of amount agreed upon
20 is a full satisfaction of the taxes; provided, that the settlement and assessment are made only with
21 the consent of the executor of the will or the trustee under the other instrument, or, in the case of a
22 transfer by will of real estate, of the persons entitled to the real estate, or, if the real estate passes
23 to a trustee for those persons, then of the trustee. The settlement, in accordance with the
24 provisions of this section, of a tax upon any transfer of property subject to a power of
25 appointment, if the agreement of settlement provides, precludes the assessment under this chapter
26 or under any act hereafter passed of any further tax, with respect to the right to transfer, upon or
27 with respect to the transfer of any property at the time subject to the power, as a part of the estate
28 of the donee of the power. The agreement is binding upon all persons taking property subject to
29 the tax, except for fraud or manifest error; and executors and trustees are expressly authorized to
30 enter into an agreement unless a contrary intention appears in the instrument defining their
31 powers.

32 **44-23-26. Adjustment of clerical or palpable errors.** -- Whenever a clerical or palpable
33 error or mistake has been made in any statement filed with the tax administrator under the
34 provisions of this chapter concerning any matter of information, or in entering amounts or figures,

1 ~~the tax administrator may assess an additional tax and receive and collect the tax. In the event that~~
2 ~~the error or mistake has resulted in an over assessment, and in case the tax has already been paid~~
3 ~~to the tax administrator the general treasurer shall, upon certification by the tax administrator and~~
4 ~~with the approval of the controller, refund any overpayment to the executor, administrator, heir~~
5 ~~at law, or trustee, or to the person by whom the tax was paid, without any further act or resolution~~
6 ~~making appropriation for the refund; provided, that not more than four (4) years have elapsed~~
7 ~~from the payment of the tax.~~

8 ~~**44-23-27. Conflict of laws as to domicile -- Definition of terms.**~~ When used in
9 sections 44-23-27 — 44-23-32 the following terms have the following meanings:

10 ~~(1) "Death tax," any tax levied by a state on account of the transfer or shifting of~~
11 ~~economic benefits in property at death, or in contemplation of death, or intended to take effect in~~
12 ~~possession or enjoyment at or after death, whether denominated an "inheritance tax," "transfer~~
13 ~~tax," "succession tax," "estate tax," "death duty," "death dues," or otherwise;~~

14 ~~(2) "Executor," any executor of the will or administrator of the estate of a decedent,~~
15 ~~except an ancillary administrator;~~

16 ~~(3) "Interested person," any person who may be entitled to receive or who has received~~
17 ~~any property or interest which may be required to be considered in computing the death tax of~~
18 ~~any state involved;~~

19 ~~(4) "Taxing official," the tax administrator in this state, and in any other reciprocal state~~
20 ~~the officer or body designated in the statute of the state substantially similar to sections 44-23-27~~
21 ~~— 44-23-32.~~

22 ~~**44-23-28. Election to invoke remedy as to conflict of laws.**~~ In any case in which this
23 state and one or more other states each claims that it was the domicile of a decedent at the time of
24 his or her death, and no judicial determination of domicile for death tax purposes has been made
25 in any of those states, any executor or the taxing official of any of those states, may elect to
26 invoke the provisions of sections 44-23-27 — 44-23-32. The election is evidenced by sending a
27 notice by registered or certified mail, receipt requested, to the taxing officials of each of those
28 states and to each executor, ancillary administrator and interested person. Any executor may
29 reject the election by sending a notice by registered or certified mail, receipt requested, to the
30 taxing officials involved and to all other executors within forty (40) days after the receipt of the
31 notice of election. If the election is rejected, no further proceedings shall be had under sections
32 44-23-27 — 44-23-32. If the election is not rejected, the dispute as to the death taxes shall be
33 determined solely as provided in this chapter, and no other proceedings to determine or assess the
34 death taxes shall be instituted in the courts of this state or otherwise.

1 ~~**44-23-29. Agreement as to amount due when domicile is in question -- Adjustment**~~
2 ~~**for credits against federal tax.**~~ -- In any case in which an election is made as provided in section
3 44-23-28 and not rejected, the tax administrator may enter into a written agreement with the other
4 taxing officials involved and with the executors, to accept a certain sum in full payment of any
5 death tax, together with interest and penalties, that may be due this state; provided, that the
6 agreement also fixes the amount to be paid the other state or states. If an agreement cannot be
7 reached and the arbitration proceeding specified in section 44-23-30 is commenced, and
8 thereafter an agreement is arrived at, a written agreement may be entered into at any time before
9 the proceeding is concluded notwithstanding the commencement of the proceeding. Upon the
10 filing of the agreement or duplicate of it with the authority which would have jurisdiction to
11 assess the death tax of this state if the decedent died domiciled in this state, an assessment shall
12 be made as provided in the agreement and the assessment, except as hereinafter provided, shall
13 finally and conclusively fix and determine the amount of death tax due this state. In the event that
14 the aggregate amount payable under the agreement to the states involved is less than the
15 maximum credit allowable to the estate against the United States estate tax imposed with respect
16 to the tax, the executor shall also immediately pay to the taxing administrator that percentage of
17 the difference between the aggregate amount and the amount of the credit, which the amount
18 payable to the taxing administrator under the agreement bears to the aggregate amount.

19 ~~**44-23-30. Interstate arbitration as to domicile.**~~ -- If in any case it appears that an
20 agreement cannot be reached as provided in section 44-23-29, or if one year has elapsed from the
21 date of the election without an agreement having been reached, the domicile of the decedent at
22 the time of his or her death shall be determined solely for death tax purposes as follows:

23 ~~(1) Where only this state and one other state are involved, the taxing administrator and~~
24 ~~the taxing official of the other state shall each appoint a member of a board of arbitration, and the~~
25 ~~appointed members shall select the third member of the board. If this state and more than one~~
26 ~~other state are involved, the taxing officials of the states shall agree upon the authorities charged~~
27 ~~with the duty of administering death tax laws in three (3) states not involved, each of which~~
28 ~~authorities shall appoint a member of the board. The members of the board shall elect one of their~~
29 ~~number as chairperson.~~

30 ~~(2) The board shall hold hearings at those places as are deemed necessary, upon~~
31 ~~reasonable notice to the executors, ancillary administrators, all other interested persons, and the~~
32 ~~taxing officials of the states involved, all of whom are entitled to be heard.~~

33 ~~(3) The board has power to administer oaths, take testimony, subpoena and require the~~
34 ~~attendance of witnesses and the production of books, papers and documents and issue~~

1 commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to
2 obey a subpoena may be punished by a judge or justice of any court of record in the same manner
3 as if the subpoena had been issued by the judge or justice or by the court in which the judge or
4 justice functions.

5 ~~(4) The board shall apply, whenever practicable, the rules of evidence which prevail in
6 federal courts under the federal rules of civil procedure at the time of hearing.~~

7 ~~(5) The board shall, by majority vote, determine the domicile of the decedent at the time
8 of his or her death. The determination is final and conclusive, and binds this state and all its
9 judicial and administrative officials on all questions concerning the domicile of the decedent for
10 death tax purposes.~~

11 ~~(6) The reasonable compensation and expenses of the members of the board and
12 employees of the board shall be agreed upon among the members, the taxing officials of the states
13 involved, and the executors. In the event an agreement cannot be reached, the compensation and
14 expenses shall be determined by the appropriate probate court of the state determined to be the
15 domicile. The amount is borne by the estate and is deemed an administration expense.~~

16 ~~(7) The determination of the board and the record of its proceedings shall be filed with
17 the authority having jurisdiction to assess the death tax in the state determined to be the domicile
18 of the decedent and with the authorities which would have had jurisdiction to assess the death tax
19 in each of the other states involved if the decedent had been found to be domiciled in that state.~~

20 ~~**44-23-31. Interest on tax pending arbitration of domicile.** --- In any case where it is
21 determined by the board of arbitration referred to in section 44-23-30 that the decedent dies
22 domiciled in this state, penalties and interest for nonpayment of the tax, between the date of the
23 election and the final determination of the board, shall not exceed, in the aggregate, four percent
24 (4%) of the amount of the taxes per annum.~~

25 ~~**44-23-32. Reciprocal laws required.** --- The provisions of sections 44-23-27 --- 44-23-31
26 apply only to cases in which each of the states involved has in effect a law substantially similar to
27 those sections.~~

28 ~~**44-23-33. Appeals.** --- Appeals from administrative orders or decisions made pursuant to
29 any provisions of this chapter are to the sixth division district court pursuant to chapter 8 of title
30 8. The taxpayer's right to appeal under this section is expressly made conditional upon
31 prepayment of all taxes, interest, and penalties unless the taxpayer moves for and is granted an
32 exemption from the prepayment requirements pursuant to section 8-8-26.~~

33 ~~**44-23-34. Permit required for transfer of securities of resident decedent.** --- No
34 banking association organized under the laws of the United States and located within this state, no~~

1 corporation incorporated within this state, and no incorporated association or joint stock company
2 or business trust having certificates representing shares of stock and carrying on business in this
3 state, shall record a transfer of its stock made by any executor, administrator, or trustee of a
4 resident decedent or issue a new certificate for any share of its stock at the instance of the
5 executor, administrator, or trustee, until a permit authorizing the transfer is issued by the tax
6 administrator and filed with the corporation, association, company or trust. Any corporation,
7 association, company, or trust making a transfer before a permit authorizing the transfer is issued
8 is liable for the amount of any tax which may be assessed on account of the bequest or gift of the
9 stock, bond or other evidence of indebtedness, together with its interest, to be collected in an
10 action brought in the name of the tax administrator.

11 **44-23-35. Statement required as to delivery of decedent's property to other than**
12 **administrator.** -- No person having in possession or under control of property forming a part of
13 the estate of a resident decedent, as provided in this chapter, may deliver or transfer the property
14 to any person other than the executor, administrator, or trustee of the decedent unless the person
15 making delivery or transfer of the property immediately furnishes the tax administrator with a
16 statement under oath describing the property delivered or transferred together with the name of
17 the person to whom the property is delivered or transferred; provided, that any insurance
18 company engaging in the business of writing contracts of insurance in the state notifies the tax
19 administrator of the amount of any payment or payments made, or to be made to any person or
20 persons under any insurance contract, as a result of the death of a Rhode Island resident,
21 whenever the total amount of payment or payments made or to be made to the person or persons
22 exceeds fifty thousand dollars (\$50,000); and provided, further, that banks and other institutions
23 having deposits standing in the joint names of two (2) or more persons, or standing in the joint
24 names of two (2) or more persons and payable to either or the survivor or survivors, are not
25 required to furnish the statement with respect to deposits of one thousand dollars (\$1,000) or less.
26 In the case of deposits of over one thousand dollars (\$1,000), the bank or other institution, having
27 knowledge of the decease of one of the persons in whose names the deposit stands, or upon
28 request of the tax administrator, shall, in lieu of the statement furnish a certificate showing the
29 amount of each deposit together with the names of the persons in whose names the deposit stands.
30 Any person who makes delivery or transfer without furnishing a statement is liable for the
31 amount of any tax which may be assessed on account of the transfer of the property, together with
32 its interest, to be collected in an action brought in the name of the tax administrator.

33 **44-23-36. Payment of tax as prerequisite for allowance of final account.** -- The final
34 account of an executor, administrator, or trustee is not allowed by the court having jurisdiction of

1 ~~the estate unless the account shows, and the court finds that all taxes imposed under the~~
2 ~~provisions of chapter 22 of this title upon any property or interest in property belonging to the~~
3 ~~estate to be settled by the account and then payable have been paid, that the payment of the taxes~~
4 ~~has been extended, or that the property or any interest in property is not liable for any tax~~
5 ~~imposed under chapter 22 of this title. The receipt of the tax administrator for the amount of the~~
6 ~~tax, is conclusive as to the payment of the tax to the extent of the receipt, and the certification of~~
7 ~~the tax administrator that an estate, property, or interest is not liable for any tax imposed by~~
8 ~~chapter 22 of this title is conclusive of that fact.~~

9 ~~**44-23-37. Applicability of enforcement provisions.** -- Sections 44-23-1 -- 44-23-8, 44-~~
10 ~~23-17, 44-23-23, 44-23-24, and 44-23-33 -- 44-23-36 apply to the tax imposed under the~~
11 ~~provisions of section 44-22-1 or 44-22-1.1, whichever is in effect at the time.~~

12 ~~**44-23-38. Termination of lien.** -- Any other provision of this or chapter 22 of this title to~~
13 ~~the contrary notwithstanding, a lien created by those chapters ceases to be a lien upon or~~
14 ~~enforceable against real estate upon the expiration of a period of ten (10) years from and after the~~
15 ~~death of the person whose act, failure to act, or death gave rise to the lien.~~

16 ~~**44-23-39. Proof of payment of domiciliary tax by administrator of nonresident.** -- At~~
17 ~~any time before the expiration of eighteen (18) months after the appointment in any probate court~~
18 ~~of this state of an executor of the will, or administrator of the estate of, any nonresident decedent,~~
19 ~~the executor or administrator shall file with the probate court proof that all death taxes, together~~
20 ~~with interest, or penalties attached to or in connection with the death taxes, which are due to the~~
21 ~~state of domicile of the decedent, or to any of its political subdivisions, have been paid or secured,~~
22 ~~or that no taxes, interest, or penalties are due, as the case may be; provided, that the filing of the~~
23 ~~proof is not required if it appears that letters testamentary have been issued in the state of~~
24 ~~domicile. The proof may be in the form of a certificate issued by the official or body charged with~~
25 ~~the administration of the death tax laws of the state of domicile.~~

26 ~~**44-23-40. Information furnished to foreign tax officials.** -- If the proof is not filed with~~
27 ~~a probate court in this state as provided by section 44-23-39, the clerk of the probate court shall~~
28 ~~immediately notify by mail the official or body of the state of domicile charged with the~~
29 ~~administration of the death tax laws of that state with respect to the estate, and shall present in the~~
30 ~~notification, so far as is known to the clerk: (1) the name, date of death and last domicile of the~~
31 ~~decedent; (2) the name and address of the executor or administrator; (3) a summary of the values~~
32 ~~of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to~~
33 ~~the decedent at the time of his or her death; and (4) the fact that the executor or administrator has~~
34 ~~not previously filed the proof required by section 44-23-39. The clerk shall also attach to the~~

1 notification a copy of the will of the decedent, if the decedent died testate, or if the decedent died
2 intestate, a list of his or her heirs and next of kin, so far as is known to the clerk. For each copy of
3 the notice the probate clerk furnishing the information shall be paid out of any money
4 appropriated for expenses of tax administration the fees provided in section 44-23-7.

5 **44-23-41. Accounting on petition by foreign tax official.** -- Within sixty (60) days after
6 the mailing of the notice, the official or body charged with the administration of the death tax
7 laws of the state of domicile may file with the probate court in this state a petition for an
8 accounting in the estate. The official or body of the state of domicile is, for the purposes of this
9 chapter, a party in interest for the purpose of petitioning the probate court for the accounting;
10 and if the petition is filed within the period of sixty (60) days, the probate court shall decree the
11 accounting, and upon the accounting being filed and approved shall decree the remission to the
12 fiduciary appointed by the probate court of the state of domicile of the balance of the intangible
13 personal property after the payment of creditors and expenses of administration in this state.

14 **44-23-42. Noncompliance by administrator of nonresident -- "State" defined.** --
15 Failure to comply with any of the provisions of sections 44-23-39 -- 44-23-41 bars any executor
16 or administrator from the right to a final accounting or discharge in any probate court in this state.
17 The word "state" for the purposes of sections 44-23-39 -- 44-23-41 includes any territory of the
18 United States, the District of Columbia, and any foreign country.

19 **44-23-43. Reciprocal laws required -- Liberal construction -- Remission of intangible**
20 **property.** -- The provisions of sections 44-23-39 -- 44-23-42 apply to the estate of a nonresident
21 decedent whenever the laws of the state of domicile of the decedents contain a provision, of any
22 nature or however expressed, where this state is given reasonable assurance of the collection of its
23 death taxes, interest and penalties, from the estates of decedents dying domiciled in this state but
24 whose estates are being administered by a court having probate jurisdiction in the other state; or
25 whenever the state of domicile does not grant letters testamentary or of administration in
26 nonresident estates until after the letters have been issued by the state of domicile. The provisions
27 are liberally construed in order to insure that the state of domicile of any decedent receives any
28 death taxes which may be due it, together with interest and penalties. Nothing in those sections
29 shall be construed to prevent a probate court from ordering the remission of any intangible
30 personal property belonging to a nonresident decedent whose estate is being administered in this
31 state, and the probate court is authorized to order the remission whenever good cause is shown.

32 **44-23-44. Exercise of statutory powers.** -- Whenever in this chapter or chapter 22 of
33 this title any reference is made to any power or duty of the tax administrator, the reference shall
34 be construed to mean that the power or duty is exercised by the tax administrator or by his or her

1 authorized agent, under the supervision and direction of the director of administration. Whenever
2 in this chapter or chapter 22 of this title any reference is made to any power or duty of the
3 controller, the reference shall be construed to mean that the power or duty is exercised by the
4 controller or by his or her authorized agent, under the supervision and direction of the director of
5 administration.

6 ~~44-23-45. Liberal construction -- Incidental powers. --~~ The provisions of this chapter
7 and chapter 22 of this title are interpreted and construed liberally in order to accomplish the
8 purpose of those chapters, and the tax administrator has, in addition to the powers in those
9 chapters specified, mentioned and indicated, all additional implied and incidental powers which
10 may be proper and necessary to effect and carry out, perform and execute all the powers
11 specified, mentioned and indicated in those chapters.

12 ~~44-23-46. Severability. --~~ If any clause, sentence, paragraph, section, or part of this
13 chapter and chapter 22 of this title is for any reason adjudged by any court of competent
14 jurisdiction to be invalid, that judgment does not affect, impair or invalidate any other portion of
15 those chapters which can be given reasonable effect without the part adjudged invalid.

16 SECTION 3. Chapter 44-23.1 of the General Laws entitled "Uniform Estate Tax
17 Apportionment" is hereby repealed in its entirety.

18 CHAPTER 44-23.1

19 Uniform Estate Tax Apportionment

20 ~~44-23.1-1. Definitions. --~~ In this chapter:

21 ~~(1) "Estate" means the gross estate of a decedent as determined for the purpose of federal~~
22 ~~estate tax and the estate and transfer taxes payable as provided by this title;~~

23 ~~(2) "Fiduciary" means executor, administrator of any description, and trustee;~~

24 ~~(3) "Person" means any individual, partnership, association, joint stock company,~~
25 ~~corporation, government, political subdivision, governmental agency, or local governmental~~
26 ~~agency;~~

27 ~~(4) "Person interested in the estate" means any person, including a personal~~
28 ~~representative, guardian, or trustee, entitled to receive, or who has received, from a decedent~~
29 ~~while alive or by reason of the death of a decedent any property or interest in property included in~~
30 ~~the decedent's taxable estate;~~

31 ~~(5) "State" means any state, territory, or possession of the United States, the District of~~
32 ~~Columbia, or the Commonwealth of Puerto Rico; and~~

33 ~~(6) "Tax" means the federal estate tax and the estate and transfer taxes payable as~~
34 ~~provided by this title and interest and penalties imposed in addition to the tax.~~

1 ~~**44-23.1-2. Apportionment.**— Unless the will provides, the tax is apportioned among all~~
2 ~~persons interested in the estate. The apportionment is made in the proportion that the value of the~~
3 ~~interest of each person interested in the estate bears to the total value of the interests of all persons~~
4 ~~interested in the estate. The values used in determining the tax are used for that purpose.~~

5 ~~**44-23.1-3. Procedure for determining apportionment.**— (a) The court having~~
6 ~~jurisdiction over the administration of the estate of a decedent determines the apportionment of~~
7 ~~the tax. If there are no probate proceedings, the superior court of the county where the decedent~~
8 ~~was domiciled at death determines the apportionment of the tax upon the application of the~~
9 ~~person required to pay the tax.~~

10 ~~(b) If the court finds that it is inequitable to apportion interest and penalties in the~~
11 ~~manner provided in this chapter because of special circumstances, it may direct apportionment in~~
12 ~~the manner it finds equitable.~~

13 ~~(c) The expenses reasonably incurred by any fiduciary and by other persons interested in~~
14 ~~the estate in connection with the determination of the amount and apportionment of the tax are~~
15 ~~apportioned as provided in section 44-23.1-2 and charged and collected as a part of the tax~~
16 ~~apportioned. If the court finds it is inequitable to apportion the expenses as provided in section~~
17 ~~44-23.1-2, it may direct apportionment of the expenses equitably.~~

18 ~~(d) If the court finds that the assessment of penalties and interest assessed in relation to~~
19 ~~the tax is due to delay caused by the negligence of the fiduciary, the court may charge the~~
20 ~~fiduciary with the amount of the assessed penalties and interest.~~

21 ~~(e) In any suit or judicial proceeding to recover from any person interested in the estate~~
22 ~~the amount of the tax apportioned to the person in accordance with this chapter, the determination~~
23 ~~of the court in respect to the tax is prima facie correct.~~

24 ~~**44-23.1-4. Method of proration.**— (a) The fiduciary or other person required to pay the~~
25 ~~tax may withhold from any property of the decedent in his or her possession, distributable to any~~
26 ~~person interested in the estate, the amount of tax attributable to his or her interest. If the property~~
27 ~~in possession of the fiduciary or other person required to pay the tax and distributable to any~~
28 ~~person interested in the estate is insufficient to satisfy the proportionate amount of the tax~~
29 ~~determined to be due from the person, the fiduciary or other person required to pay the tax may~~
30 ~~recover the deficiency from the person interested in the estate. If the property is not in the~~
31 ~~possession of the fiduciary or other person required to pay the tax, the fiduciary or the other~~
32 ~~person required to pay the tax may recover from any person interested in the estate the amount of~~
33 ~~the tax apportioned to the person in accordance with this chapter.~~

34 ~~(b) If property held by the fiduciary or other person is distributed prior to final~~

1 apportionment of the tax, the fiduciary or other person may require the distributee to provide a
2 bond or other security for the apportionment liability in the form and amount prescribed by the
3 fiduciary, with the approval of the court having jurisdiction of the administration of the estate.

4 ~~**44-23.1-5. Allowance for exemptions, deductions, and credits.**~~ (a) In making an
5 apportionment, allowances are made for any exemptions granted, any classification made of
6 persons interested in the estate and for any deductions and credits allowed by the law imposing
7 the tax.

8 (b) Any exemption or deduction allowed by reason of the relationship of any person to
9 the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing
10 that relationship or receiving the gift. When an interest is subject to a prior present interest which
11 is not allowable as a deduction the tax apportionable against the present interest is paid from
12 principal.

13 (c) Any deduction for property previously taxed and any credit for gift taxes or death
14 taxes of a foreign country paid by the decedent or his or her estate inures to the proportionate
15 benefit of all persons liable to apportionment.

16 (d) Any credit for inheritance, succession or estate taxes or taxes in their nature in
17 respect to property or interests includable in the estate inures to the benefit of the person or
18 interests chargeable with their payment to the extent that, or in proportion as the credit reduces
19 the tax.

20 (e) To the extent that property passing to or in trust for a surviving spouse or any
21 charitable, public, or similar gift or bequest does not constitute an allowable deduction for
22 purposes of the tax solely by reason of an inheritance tax or other death tax imposed upon and
23 deductible from the property, the property shall not be included in the computation provided for
24 in this chapter, and to that extent no apportionment shall be made against the property. This does
25 not apply in any instance where the result deprives the estate of a deduction otherwise allowable
26 under 26 U.S.C. section 2053(d), relating to deduction for state death taxes on transfers for
27 public, charitable, or religious uses.

28 ~~**44-23.1-6. No apportionment between temporary and remainder interests.**~~ No
29 interest in income and no estate for years or for life or other temporary interest in any property or
30 fund is subject to apportionment as between the temporary interest and the remainder. The tax on
31 the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the
32 property or funds subject to the temporary interest and remainder.

33 ~~**44-23.1-7. Exoneration of fiduciary.**~~ Neither the fiduciary nor other person required
34 to pay the tax is under any duty to institute any suit or proceeding to recover from any person

1 interested in the estate the amount of the tax apportioned to that person until the expiration of the
2 three (3) months next following final determination of the tax. A fiduciary or other person
3 required to pay the tax who institutes the suit or proceeding within one year after the three (3)
4 months' period is not subject to any liability or surcharge because any portion of the tax
5 apportioned to any person interested in the estate was collectible at a time following the death of
6 the decedent but thereafter became uncollectible. If the fiduciary or other person required to pay
7 the tax cannot collect from any person interested in the estate the amount of the tax apportioned
8 to the person, the amount not recoverable is paid from the residuary estate. To the extent that the
9 residuary estate is not adequate, the balance is equitably apportioned among the other persons
10 interested in the estate who are subject to apportionment.

11 ~~**44-23.1-8. Action by nonresident, reciprocity.**~~ --- Subject to this section, a fiduciary
12 acting in another state or a person required to pay the tax who is domiciled or resident in another
13 state may institute an action in the courts of this state and may recover a proportionate amount of
14 the federal estate tax or an estate tax payable to another state or of a death duty due by the
15 decedent's estate to another state from a person interested in the estate who is either domiciled or
16 resident in this state or who owns property in this state subject to attachment or execution. For the
17 purposes of the action, the determination of apportionment by the court having jurisdiction of the
18 administration of the decedent's estate in the other state is prima facie correct. The provisions of
19 this section apply only if the state in which the determination of apportionment was made affords
20 a substantially similar remedy.

21 ~~**44-23.1-9. Uniformity of interpretation.**~~ --- This chapter is applied and construed as to
22 effectuate its general purpose to make uniform the law with respect to the subject of this chapter
23 among those states which enact it.

24 ~~**44-23.1-10. Short title.**~~ --- This chapter may be cited as the "Uniform Estate Tax
25 Apportionment Act".

26 ~~**44-23.1-11. Severability.**~~ --- If any provision of this chapter or the application of this
27 chapter to any person or circumstance is held invalid, the invalidity does not affect other
28 provisions or applications of the chapter which can be given effect without the invalid provision
29 or application, and to this end the provisions of this chapter are severable.

30 ~~**44-23.1-12. Time of application of chapter.**~~ --- This chapter does not apply to taxes due
31 on account of the death of decedents dying prior to six (6) months after July 6, 1971.

32 SECTION 4. This act shall take effect upon passage.

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LC00007
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION -- INHERITANCE TAX

- 1 This act would repeal the inheritance tax.
- 2 This act would take effect upon passage.

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LC00007
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