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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

A N A C T

RELATING TO TAXATION -- ESTATE AND TRANSFER TAXES

Introduced By: Representatives Chippendale, Filippi, Lyle, Price, and Place

Date Introduced: February 26, 2020

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2 Liability and Computation" is hereby repealed in its entirety.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.~~

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

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

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

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

22 ~~(e) In computing the value of the net estate in subsection (a) of this section, there is~~
23 ~~deducted from the estate and exempted from the estate tax a marital deduction, as defined in 26~~
24 ~~U.S.C. § 2056, 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) of this section, there is~~
29 ~~deducted from 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 (ii) the decedent is survived by a minor~~
31 ~~child who, immediately after the death of the decedent, has no known parent, an amount equal to~~
32 ~~the value of any interest in property which passes or has passed from the decedent to the child,~~
33 ~~but only to the extent that the interest is included in determining the value of the gross estate. The~~
34 ~~aggregate amount of the deductions allowed under this section (computed without regard to this~~

1 ~~subsection) with respect to interests in property passing to any minor child shall not exceed an~~
2 ~~amount equal to five thousand dollars (\$5,000) multiplied by the excess of twenty one (21) over~~
3 ~~the age (in years) which the child has attained on the date of the decedent's death.~~

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

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

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

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

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

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

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

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

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

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

28 **44-22-1.1. Tax on net estate of decedent.**

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

33 ~~(2) For decedents whose death occurs on or after January 1, 2002, but prior to January 1,~~
34 ~~2010, a tax is imposed upon the transfer of the net estate of every resident or nonresident~~

1 ~~decedent as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for~~
2 ~~state death taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided,~~
3 ~~however, that the tax shall be imposed only if the net taxable estate shall exceed six hundred~~
4 ~~seventy five thousand dollars (\$675,000). Any scheduled increase in the unified credit provided~~
5 ~~in 26 U.S.C. § 2010 in effect on January 1, 2001, or thereafter, shall not apply.~~

6 ~~(3) For decedents whose death occurs on or after January 1, 2010, and prior to January 1,~~
7 ~~2015, a tax is imposed upon the transfer of the net estate of every resident or nonresident~~
8 ~~decedent as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for~~
9 ~~state death taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided,~~
10 ~~however, that the tax shall be imposed only if the net taxable estate shall exceed eight hundred~~
11 ~~and fifty thousand dollars (\$850,000); provided, further, beginning on January 1, 2011, and each~~
12 ~~January 1 thereafter until January 1, 2015, said amount shall be adjusted by the percentage of~~
13 ~~increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the~~
14 ~~United States Department of Labor Statistics determined as of September 30 of the prior calendar~~
15 ~~year; said adjustment shall be compounded annually and shall be rounded up to the nearest five~~
16 ~~dollar (\$5.00) increment. Any scheduled increase in the unified credit provided in 26 U.S.C. §~~
17 ~~2010 in effect on January 1, 2003, or thereafter, shall not apply.~~

18 ~~(4) For decedents whose death occurs on or after January 1, 2015, a tax is imposed upon~~
19 ~~the transfer of the net estate of every resident or nonresident decedent as a tax upon the right to~~
20 ~~transfer. The tax is a sum equal to the maximum credit for state death taxes allowed by 26 U.S.C.~~
21 ~~§ 2011, as it was in effect as of January 1, 2001; provided, however, that a Rhode Island credit~~
22 ~~shall be allowed against any tax so determined in the amount of sixty-four thousand four hundred~~
23 ~~(\$64,400). Any scheduled increase in the unified credit provided in 26 U.S.C. § 2010 in effect on~~
24 ~~January 1, 2003, or thereafter, shall not apply; provided, further, beginning on January 1, 2016,~~
25 ~~and each January 1 thereafter, said Rhode Island credit amount under this section shall be~~
26 ~~adjusted by the percentage of increase in the Consumer Price Index for all Urban Consumers~~
27 ~~(CPI-U) as published by the United States Department of Labor Statistics determined as of~~
28 ~~September 30 of the prior calendar year; said adjustment shall be compounded annually and shall~~
29 ~~be rounded up to the nearest five dollar (\$5.00) increment.~~

30 ~~(b) If the decedent's estate contains property having a tax situs not within the state, then~~
31 ~~the tax determined by this section is reduced to an amount determined by multiplying the tax by a~~
32 ~~fraction whose numerator is the gross estate excluding all property having a tax situs not within~~
33 ~~the state at the decedent's death and whose denominator is the gross estate. In determining the~~
34 ~~fraction, no deductions are considered and the gross estate is not reduced by a mortgage or other~~

1 ~~indebtedness for which the decedent's estate is not liable.~~

2 ~~(c)(1) The terms "gross taxable estate", "federal gross estate" or "net taxable estate" used~~
3 ~~in this chapter or chapter 23 of this title has the same meaning as when used in a comparable~~
4 ~~context in the laws of the United States, unless a different meaning is clearly required by the~~
5 ~~provisions of this chapter or chapter 23 of this title. Any reference in this chapter or chapter 23 of~~
6 ~~this title to the Internal Revenue Code or other laws of the United States means the Internal~~
7 ~~Revenue Code of 1954, 26 U.S.C. § 1 et seq.~~

8 ~~(2) For decedents whose death occurs on or after January 1, 2002, the terms "gross~~
9 ~~taxable estate" "federal gross estate" or "net taxable estate" used in this chapter or chapter 23 of~~
10 ~~this title has the same meaning as when used in a comparable context in the laws of the United~~
11 ~~States, unless a different meaning is clearly required by the provisions of this chapter or chapter~~
12 ~~23 of this title. Any reference in this chapter or chapter 23 of this title to the Internal Revenue~~
13 ~~Code or other laws of the United States means the Internal Revenue Code of 1954, 26 U.S.C. § 1~~
14 ~~et seq., as they were in effect as of January 1, 2001, unless otherwise provided.~~

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

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

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

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

20 ~~**44-22-2. Exemption -- Missing persons in military action.**~~

21 ~~An estate of a serviceman or servicewoman who has been classified by the armed forces~~
22 ~~of the United States as missing in action is exempt from provisions of this chapter pertaining to~~
23 ~~taxation.~~

24 ~~**44-22-3 -- 44-22-7. Repealed.**~~

25 ~~**44-22-8 -- 44-22-11. Repealed.**~~

26 ~~**44-22-12 -- 44-22-20. Repealed.**~~

27 ~~**44-22-21. Repealed.**~~

28 ~~**44-22-22 -- 44-22-24. Repealed.**~~

29 ~~**44-22-25. Repealed.**~~

30 ~~**44-22-26. [Renumbered.]**~~

31
32 SECTION 2. Chapter 44-23 of the General Laws entitled "Estate and Transfer Taxes -
33 Enforcement and Collection" is hereby repealed in its entirety.

34 ~~CHAPTER 44-23~~

~~**44-23-1. Statements filed by executors, administrators and heirs at law.**~~

~~(a) Every executor, administrator, and heir at law, within nine (9) months after the death of the decedent, shall file with the tax administrator a statement under oath showing the full and fair cash value of the estate, the amounts paid out from the estate for claims, expenses, charges, and fees, and the statement shall also provide the names and addresses of all persons entitled to take any share or interest of the estate as legatees or distributees of the estate.~~

~~(b) A fee of fifty dollars (\$50.00) is paid when filing any statement required by this section. All fees received under this section are allocated to the tax administrator for enforcement and collection of taxes.~~

~~**44-23-2. Statements filed by trustees.**~~

~~Whenever any person during his or her life appoints a trustee, naming that person or others as beneficiaries, and providing for the administration of the trust after his or her death, or providing for a termination of the trust and a distribution of the trust estate or any part of the trust estate at his or her death, any person acting as the trustee or any trustee of property subject to a power of appointment, shall, within thirty (30) days after the death of the creator of the trust, or within thirty (30) days after the death of the donee of the power file with the tax administrator a sworn statement showing:~~

~~(1) The trust agreement, if any;~~

~~(2) The full and fair cash value of the trust estate;~~

~~(3) The extent of the duration of the trust;~~

~~(4) The manner provided for its termination;~~

~~(5) The names and addresses of the beneficiaries of the trust; and~~

~~(6) Any other information relating to the trust, which the tax administrator may deem necessary for the proper assessment of the tax on the estate.~~

~~**44-23-3. Extension of time for filing of statement.**~~

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

~~**44-23-4. Declarations under penalties of perjury.**~~

~~The oath or affirmation required by the provisions of this chapter as to any report or written statement is not required if the report or statement to be sworn to contains or is verified by~~

1 ~~a written declaration that it is made under the penalties of perjury; and whoever signs or issues~~
2 ~~any report or statement containing or verified by a written declaration is, if the report or statement~~
3 ~~is willfully false, guilty of perjury.~~

4 **44-23-5. Appraisal of estate.**

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

30 (b) ~~Notwithstanding the provisions of subsection 44-23-5(a), all farmland, as such term is~~
31 ~~defined in § 44-27-2, included as part of an estate for purposes of this section and utilized by the~~
32 ~~executor, administrator, heir at law, beneficiary or trustee as farmland, shall be appraised at its~~
33 ~~use value according to applicable federal and state law and not at its full and fair cash value.~~

34 **44-23-6. Notice by probate clerk of grant of letters on estate.**

1 ~~Every probate clerk shall, within thirty (30) days after the granting of letters testamentary~~
2 ~~or letters of administration upon any estate, notify the tax administrator of the name of the~~
3 ~~decedent, the name and address of the executor, administrator, or trustee appointed, and the~~
4 ~~amount of the bond required by the court; and shall also furnish upon request certified copies of~~
5 ~~documents and any further information from the records and files of his or her office in regard to~~
6 ~~the estate that the tax administrator may from time to time require.~~

7 ~~**44-23-7. Fees of probate clerk.**~~

8 ~~The probate clerk furnishing the information required by § 44-23-6 is paid out of any~~
9 ~~money appropriated for expenses of tax administration a fee of fifteen cents (\$.15) for every~~
10 ~~hundred words of copy, but the tax administrator may in his or her discretion make copies of the~~
11 ~~documents or of any other records of the probate court. If the copies are found by the probate~~
12 ~~clerk to be correct, the clerk shall certify to their correctness and be paid a fee of twenty five~~
13 ~~cents (\$.25) for each certification. All fees paid to a probate clerk under this section are disposed~~
14 ~~of in the same manner as is provided for the disposition of other probate fees under the provisions~~
15 ~~of chapter 22 of title 33.~~

16 ~~**44-23-8. Estates where no will has been offered or letters granted.**~~

17 ~~If upon the decease of a person leaving an estate liable to a tax under the provisions of~~
18 ~~chapter 22 of this title, a will disposing of the estate is not offered for probate or an application~~
19 ~~for administration is not made within three (3) months after the decease, the tax administrator~~
20 ~~may in his or her discretion, with the approval of the attorney general, agree with the persons~~
21 ~~interested in the estate as to the value of the estate and the amount of the tax to be assessed on the~~
22 ~~estate, or the tax administrator may apply to the probate court for the appointment of an~~
23 ~~administrator of the estate, and the probate court upon the application shall appoint an~~
24 ~~administrator of the estate.~~

25 ~~**44-23-9. Assessment and notice of estate tax -- Collection powers -- Lien.**~~

26 ~~(a) The tax imposed by § 44-22-1.1 shall be assessed upon the full and fair cash value of~~
27 ~~the net estate determined by the tax administrator as provided in this chapter. Notice of the~~
28 ~~amount of the tax shall be mailed to the executor, administrator, or trustee, but failure to receive~~
29 ~~the notice does not excuse the nonpayment of or invalidate the tax. The tax administrator shall~~
30 ~~receive and collect the assessed taxes in the same manner and with the same powers as are~~
31 ~~prescribed for and given to the collectors of taxes by chapters 7—9 of this title. The tax shall be~~
32 ~~due and payable as provided in § 44-23-16, shall be paid to the tax administrator, and shall be and~~
33 ~~remain a lien upon the estate until it is paid. All executors, administrators, and trustees are~~
34 ~~personally liable for the tax until it is paid.~~

1 ~~(b) Notwithstanding the provisions of subsection (a) of this section, under no~~
2 ~~circumstances shall the tax administrator issue any notice of deficiency determination for the~~
3 ~~amount of the estate tax due more than ten (10) years after the return was filed or should have~~
4 ~~been filed, nor shall the tax administrator commence any collection action for any estate tax due~~
5 ~~and payable unless the collection action is commenced within ten (10) years after the date a~~
6 ~~notice of deficiency determination became a final collectible assessment. "Collection action"~~
7 ~~refers to any activity undertaken by the division of taxation to collect on any state tax liabilities~~
8 ~~that are final, due, and payable under Rhode Island law. "Collection action" may include, but is~~
9 ~~not limited to, any civil action involving a liability owed under chapters 22 and 23 of title 44.~~

10 ~~(c) The ten year (10) limitation shall not apply to the renewal or continuation of the~~
11 ~~state's attempt to collect a liability that became final, due, and payable within the ten year (10)~~
12 ~~limitation periods set forth in this section.~~

13 ~~**44-23-9.1. Hearing by tax administrator on application.**~~

14 ~~An executor, administrator, trustee, legatee or other person aggrieved by a final~~
15 ~~assessment of the tax administrator as to the amount of the tax imposed by chapter 22 of this title~~
16 ~~on any estate or any part of the estate shall notify the tax administrator, in writing, within thirty~~
17 ~~(30) days from the date of mailing by the tax administrator of the notice of the final assessment or~~
18 ~~date tax is due, whichever is later, and shall request a hearing relative to the tax; and the tax~~
19 ~~administrator shall, as soon as practicable, fix a time and place for the hearing and shall, after the~~
20 ~~hearing, determine the correct amount of the tax, interest, and penalties.~~

21 ~~**44-23-10. Deposit with tax administrator to cover taxes.**~~

22 ~~An executor, administrator, or trustee may deposit with the tax administrator a sum of~~
23 ~~money sufficient in the opinion of the tax administrator to pay all taxes, which may become due~~
24 ~~under the provisions of chapter 22 of this title. When the taxes have been determined, the general~~
25 ~~treasurer shall, upon certification by the tax administrator and with the approval of the controller,~~
26 ~~repay to the executor, administrator, or trustee the difference between the determined taxes and~~
27 ~~the amount deposited, or the tax administrator shall collect any deficiency in the tax. The lien~~
28 ~~upon the estate imposed under § 44-23-9 is discharged by the acceptance of the deposit.~~

29 ~~**44-23-11. Tentative assessment.**~~

30 ~~At the request of an executor, administrator, or trustee the tax administrator may make a~~
31 ~~tentative assessment of taxes under the provisions of §§ 44-22-1 and 44-22-1.1, whichever~~
32 ~~section is in effect at the time, to prevent interest charges on the amount of the tentative~~
33 ~~assessment, and shall accept payment of that sum, and when the taxes have been finally~~
34 ~~determined, the general treasurer shall, upon certification by the tax administrator and with the~~

1 approval of the controller, repay to the executor, administrator, or trustee the difference between
2 the taxes so determined and the amount of the tentative assessment, or the tax administrator shall
3 collect any deficiency in the taxes together with interest on the deficiency, if any is due.

4 **44-23-12. Recording of lien against real estate -- Discharge.**

5 Whenever a statement is filed with the tax administrator showing the ownership of real
6 property, the tax administrator shall notify the recorder of deeds or the clerk of the city or town,
7 as the case may be, in which the real property is located, and the recorder of deeds shall note in
8 the land records of his or her office the decedent's name, and the fact that all real property
9 belonging to the decedent is impressed with a lien under the provisions of this chapter. Upon the
10 discharge of the lien, the tax administrator shall send the recorder of deeds a further notice
11 showing the discharge and the manner of the discharge. The recorder of deeds is paid out of any
12 money appropriated for expenses of tax administration, a fee of one dollar and fifty cents (\$1.50)
13 for a completed entry.

14 **44-23-13. Assessment and notice of transfer tax -- Collection powers -- Lien on**
15 **property.**

16 (a) All taxes imposed by § 44-22-1.1 shall be assessed by the tax administrator upon the
17 full and fair cash value of the property transferred at the rates described in chapter 22 of this title
18 and only upon the amount in excess of the exemptions or deductions specified in that chapter, to
19 be paid to the tax administrator, and all executors, administrators, or trustees are personally liable
20 for any and all taxes until they are paid. Notice of the amount of the taxes shall be mailed to the
21 executor, administrator or trustee liable for the taxes, and upon request made to the tax
22 administrator to any other person by whom the taxes are payable, but failure to receive the notice
23 does not excuse the nonpayment of or invalidate the taxes. Unless appeal is taken from the
24 assessment, as provided in this chapter, the amount of assessed taxes is final.

25 (b) The tax administrator shall receive and collect the assessed taxes in the manner and
26 with the powers prescribed and given to the collectors of taxes by chapters 7—9 of this title.
27 Payment of the certified amount is a discharge of the tax.

28 (c) The taxes are and remain a lien upon the property transferred, and upon all property
29 acquired by the executor, administrator or trustee in substitution for the property while that
30 property remains in his or her hands until the taxes are paid, but the lien does not affect any
31 tangible personal property or intangible personal property after it has passed to a bona fide
32 purchaser for value. Nothing contained in this section gives the owner of any securities specified
33 in § 44-23-34 the right to have the securities transferred to the owner by the corporation,
34 association, company or trust issuing the securities, until the permit required by § 44-23-34 has

1 ~~been filed as provided in § 44-23-34.~~

2 ~~**44-23-14. Discharge of lien on real estate -- Liability of heir or devisee.**~~

3 ~~The lien imposed under § 44-23-13 upon any real estate or separate parcel of real estate~~
4 ~~may be discharged by the payment of all taxes due and to become due upon the real estate or~~
5 ~~separate parcel, or by an order of the tax administrator transferring the lien to other real estate~~
6 ~~owned by the person to whom the real estate or separate parcel of the real estate passes, or by the~~
7 ~~acceptance of the surety for the payment of taxes which the tax administrator may approve. The~~
8 ~~heir, devisee, or other donee is personally liable for the tax on the real estate, as well as the~~
9 ~~executor, administrator, or trustee; and if the executor, administrator, or trustee pays the tax he or~~
10 ~~she shall, unless the tax is made an expense of administration by the will or other instrument of~~
11 ~~the decedent, have the right to recover the tax from the heir, devisee, or other donee of the real~~
12 ~~estate.~~

13 ~~**44-23-15. Taxes as debt to state.**~~

14 ~~The taxes imposed under the provisions of chapter 22 of this title, together with all~~
15 ~~penalties, charges and interest shall also become, from the time the taxes are due and payable, a~~
16 ~~debt to the state of Rhode Island from the person or corporation liable for the payment of the~~
17 ~~taxes.~~

18 ~~**44-23-16. Time taxes due -- Interest and additions to tax on delinquent payments.**~~

19 ~~All taxes imposed by chapter 22 of this title, unless provided, are due and payable nine~~
20 ~~(9) months after the date of death of the decedent. If the taxes are not paid within nine (9) months~~
21 ~~from the date of death, interest shall be charged and collected at the annual rate provided by § 44-~~
22 ~~1-7 from the time the tax is due, determined without regard to any extension of time for payment.~~
23 ~~In addition, if the taxes are not paid when due (determined with regard to any extension of time~~
24 ~~for payment), there is added to the amount of tax due five tenths percent (0.5%) of the tax per~~
25 ~~month to a maximum of twenty five percent (25%) unless it is shown that the failure to pay is due~~
26 ~~to reasonable cause and not due to willful neglect.~~

27 ~~**44-23-16.1. Interest on overpayments.**~~

28 ~~If it is determined that any overpayment has been made with respect to taxes imposed by~~
29 ~~chapter 22 of this title, the amount of the overpayment bears interest at the annual rate established~~
30 ~~by § 44-1-7.1. The acceptance of the check shall be without prejudice to any right of the taxpayer~~
31 ~~to claim any additional overpayment and interest.~~

32 ~~**44-23-17. Suspension of tax payment pending claim against estate.**~~

33 ~~Whenever it is necessary in the settlement of any estate to retain property or funds for the~~
34 ~~purpose of paying the claim of any creditor, the amount or validity of which is contested and is~~

1 ~~not determined, the payment of the whole or a proportionate part of the tax may be suspended, by~~
2 ~~and with the approval of the tax administrator, to await the disposition of the claim.~~

3 ~~**44-23-18. Extension of time for payment of additional estate tax.**~~

4 ~~Whenever the tax administrator finds that the payment of the tax imposed by § 44-22-1.1~~
5 ~~causes undue hardship, the tax administrator may, in his or her discretion, with the approval of~~
6 ~~the attorney general and by agreement with the executor, administrator, or trustee, extend the time~~
7 ~~for payment of the whole or any part of the tax for a period not to exceed four (4) years from the~~
8 ~~date the tax is due and payable, and may provide for payment in installments. In that case the~~
9 ~~amount in respect of which the extension is granted shall be paid with or without interest, on or~~
10 ~~before the date of the expiration of the period of the extension.~~

11 ~~**44-23-19 -- 44-23-22. Repealed.**~~

12 ~~**44-23-23. Sale of property to pay tax.**~~

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

17 ~~**44-23-24. Refusal to furnish information or obey subpoena.**~~

18 ~~If any executor, administrator, heir at law, or trustee, probate clerk or other person~~
19 ~~neglects or refuses to file any statement as required by the provisions of this chapter, or to furnish~~
20 ~~any other information required by this chapter, or neglects or refuses to comply with any~~
21 ~~subpoena issued under the authority of § 44-23-5, the tax administrator may apply to the sixth~~
22 ~~(6th) division of the district court, upon proof by affidavit of the neglect or refusal, for an order~~
23 ~~returnable in not less than two (2) nor more than five (5) days, directing the person charged in the~~
24 ~~affidavit with the neglect or refusal to show cause before the judge who made the order, or any~~
25 ~~other judge of the court, why the person should not be adjudged in contempt. Upon the return of~~
26 ~~the order, the judge before whom the matter is brought for a hearing shall examine the person~~
27 ~~under oath, and the person shall be given an opportunity to be heard. If the judge determines that~~
28 ~~the person has without reasonable cause been guilty of the neglect or refusal complained of, the~~
29 ~~judge may immediately commit the offender to the adult correctional institutions, to remain there~~
30 ~~until the offender submits to file the statement required or to furnish the information required, or~~
31 ~~to obey the subpoena, as the case may be, or is discharged according to law, or the judge may~~
32 ~~make any other order in the premises that the circumstances of the case may seem to the judge to~~
33 ~~require, and may from time to time alter, amend or suspend any order entered by the judge under~~
34 ~~this section. Notwithstanding anything contained in this section or in § 44-23-5, whenever any~~

1 ~~executor, administrator, heir at law, trustee, or other person liable for any tax imposed under the~~
2 ~~provisions of chapter 22 of this title, refuses or neglects to furnish any information which in the~~
3 ~~opinion of the tax administrator is necessary for the proper computation of the taxes payable~~
4 ~~under that chapter, after having been requested so to do, the tax administrator may in his or her~~
5 ~~discretion assess and collect the taxes at the highest rate at which they could in any event be~~
6 ~~computed. A party aggrieved by an order of the court may appeal the order to the supreme court~~
7 ~~in accordance with the procedures contained in the rules of appellate procedure of the supreme~~
8 ~~court.~~

9 **44-23-25. Settlement of taxes due.**

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

24 **44-23-26. Adjustment of clerical or palpable errors.**

25 ~~Whenever a clerical or palpable error or mistake has been made in any statement filed~~
26 ~~with the tax administrator under the provisions of this chapter concerning any matter of~~
27 ~~information, or in entering amounts or figures, the tax administrator may assess an additional tax~~
28 ~~and receive and collect the tax. In the event that the error or mistake has resulted in an over~~
29 ~~assessment, and in case the tax has already been paid to the tax administrator the general treasurer~~
30 ~~shall, upon certification by the tax administrator and with the approval of the controller, refund~~
31 ~~any overpayment to the executor, administrator, heir at law, or trustee, or to the person by whom~~
32 ~~the tax was paid, without any further act or resolution making appropriation for the refund;~~
33 ~~provided, that not more than four (4) years have elapsed from the payment of the tax.~~

34 **44-23-27. Conflict of laws as to domicile -- Definition of terms.**

1 ~~When used in §§ 44-23-27—44-23-32 the following terms have the following meanings:~~

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

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

8 ~~(3) "Interested person" means any person who may be entitled to receive or who has~~
9 ~~received any property or interest which may be required to be considered in computing the death~~
10 ~~tax of any state involved;~~

11 ~~(4) "Taxing official" means the tax administrator in this state, and in any other reciprocal~~
12 ~~state the officer or body designated in the statute of the state substantially similar to §§ 44-23-27—~~
13 ~~44-23-32.~~

14 ~~**44-23-28. Election to invoke remedy as to conflict of laws.**~~

15 ~~(a) In any case in which this state and one or more other states each claim that it was the~~
16 ~~domicile of a decedent at the time of his or her death, and no judicial determination of domicile~~
17 ~~for death tax purposes has been made in any of those states, any executor or the taxing official of~~
18 ~~any of those states, may elect to invoke the provisions of §§ 44-23-27—44-23-32. The election is~~
19 ~~evidenced by sending a notice by registered or certified mail, receipt requested, to the taxing~~
20 ~~officials of each of those states and to each executor, ancillary administrator and interested~~
21 ~~person.~~

22 ~~(b) Any executor may reject the election by sending a notice by registered or certified~~
23 ~~mail, receipt requested, to the taxing officials involved and to all other executors within forty (40)~~
24 ~~days after the receipt of the notice of election. If the election is rejected, no further proceedings~~
25 ~~shall be had under §§ 44-23-27—44-23-32. If the election is not rejected, the dispute as to the~~
26 ~~death taxes shall be determined solely as provided in this chapter, and no other proceedings to~~
27 ~~determine or assess the death taxes shall be instituted in the courts of this state or otherwise.~~

28 ~~**44-23-29. Agreement as to amount due when domicile is in question— Adjustment**~~
29 ~~**for credits against federal tax.**~~

30 ~~In any case in which an election is made as provided in § 44-23-28 and not rejected, the~~
31 ~~tax administrator may enter into a written agreement with the other taxing officials involved and~~
32 ~~with the executors, to accept a certain sum in full payment of any death tax, together with interest~~
33 ~~and penalties, that may be due this state; provided, that the agreement also fixes the amount to be~~
34 ~~paid the other state or states. If an agreement cannot be reached and the arbitration proceeding~~

1 ~~specified in § 44-23-30 is commenced, and thereafter an agreement is arrived at, a written~~
2 ~~agreement may be entered into at any time before the proceeding is concluded notwithstanding~~
3 ~~the commencement of the proceeding. Upon the filing of the agreement or duplicate of it with the~~
4 ~~authority which would have jurisdiction to assess the death tax of this state if the decedent died~~
5 ~~domiciled in this state, an assessment shall be made as provided in the agreement. The~~
6 ~~assessment, except as hereinafter provided, shall finally and conclusively fix and determine the~~
7 ~~amount of death tax due this state. In the event that the aggregate amount payable under the~~
8 ~~agreement to the states involved is less than the maximum credit allowable to the estate against~~
9 ~~the United States estate tax imposed with respect to the tax, the executor shall also immediately~~
10 ~~pay to the taxing administrator that percentage of the difference between the aggregate amount~~
11 ~~and the amount of the credit, which the amount payable to the taxing administrator under the~~
12 ~~agreement bears to the aggregate amount.~~

13 **44-23-30. Interstate arbitration as to domicile.**

14 ~~If in any case it appears that an agreement cannot be reached as provided in § 44-23-29,~~
15 ~~or if one year has elapsed from the date of the election without an agreement having been~~
16 ~~reached, the domicile of the decedent at the time of his or her death shall be determined solely for~~
17 ~~death tax purposes as follows:~~

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

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

28 ~~(3) The board has the power to administer oaths, take testimony, subpoena and require~~
29 ~~the attendance of witnesses and the production of books, papers and documents and issue~~
30 ~~commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to~~
31 ~~obey a subpoena may be punished by a judge or justice of any court of record in the same manner~~
32 ~~as if the subpoena had been issued by the judge or justice or by the court in which the judge or~~
33 ~~justice functions.~~

34 ~~(4) The board shall apply, whenever practicable, the rules of evidence which prevail in~~

1 ~~federal courts under the federal rules of civil procedure at the time of hearing.~~

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

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

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

15 **44-23-31. Interest on tax pending arbitration of domicile.**

16 ~~In any case where it is determined by the board of arbitration referred to in § 44-23-30~~
17 ~~that the decedent died domiciled in this state, penalties and interest for nonpayment of the tax,~~
18 ~~between the date of the election and the final determination of the board, shall not exceed, in the~~
19 ~~aggregate, four percent (4%) of the amount of the taxes per annum.~~

20 **44-23-32. Reciprocal laws required.**

21 ~~The provisions of §§ 44-23-27—44-23-31 apply only to cases in which each of the states~~
22 ~~involved has in effect a law substantially similar to those sections.~~

23 **44-23-33. Appeals.**

24 ~~Appeals from administrative orders or decisions made pursuant to any provisions of this~~
25 ~~chapter are to the sixth (6th) division district court pursuant to chapter 8 of title 8. The taxpayer's~~
26 ~~right to appeal under this section is expressly made conditional upon prepayment of all taxes,~~
27 ~~interest, and penalties unless the taxpayer moves for and is granted an exemption from the~~
28 ~~prepayment requirements pursuant to § 8-8-26.~~

29 **44-23-34. Permit required for transfer of securities of resident decedent.**

30 ~~No banking association organized under the laws of the United States and located within~~
31 ~~this state, no corporation incorporated within this state, and no incorporated association or joint~~
32 ~~stock company or business trust having certificates representing shares of stock and carrying on~~
33 ~~business in this state, shall record a transfer of its stock made by any executor, administrator, or~~
34 ~~trustee of a resident decedent or issue a new certificate for any share of its stock at the instance of~~

1 ~~the executor, administrator, or trustee, until a permit authorizing the transfer is issued by the tax~~
2 ~~administrator and filed with the corporation, association, company or trust. Any corporation,~~
3 ~~association, company, or trust making a transfer before a permit authorizing the transfer is issued~~
4 ~~is liable for the amount of any tax which may be assessed on account of the bequest or gift of the~~
5 ~~stock, bond or other evidence of indebtedness, together with its interest, to be collected in an~~
6 ~~action brought in the name of the tax administrator.~~

7 ~~**44-23-35. Statement required as to delivery of decedent's property to other than**~~
8 ~~**administrator.**~~

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

30 ~~**44-23-36. Payment of tax as prerequisite for allowance of final account.**~~

31 ~~The final account of an executor, administrator, or trustee shall not be allowed by the~~
32 ~~court having jurisdiction of the estate unless the account shows, and the court finds, that all taxes~~
33 ~~imposed under the provisions of chapter 22 of this title upon any property or interest in property~~
34 ~~belonging to the estate to be settled by the account and then payable have been paid, that the~~

1 ~~payment of the taxes has been extended, or that the property or any interest in property is not~~
2 ~~liable for any tax imposed under chapter 22 of this title. The receipt of the tax administrator for~~
3 ~~the amount of the tax is conclusive as to the payment of the tax to the extent of the receipt, and~~
4 ~~the certification of the tax administrator that an estate, property, or interest is not liable for any~~
5 ~~tax imposed by chapter 22 of this title is conclusive of that fact.~~

6 ~~**44-23-37. Applicability of enforcement provisions.**~~

7 ~~Sections 44-23-1—44-23-8, 44-23-17, 44-23-23, 44-23-24, and 44-23-33—44-23-36~~
8 ~~apply to the tax imposed under the provisions of § 44-22-1 or 44-22-1.1, whichever is in effect at~~
9 ~~the time.~~

10 ~~**44-23-38. Termination of lien.**~~

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

15 ~~**44-23-39. Proof of payment of domiciliary tax by administrator of nonresident.**~~

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

25 ~~**44-23-40. Information furnished to foreign tax officials.**~~

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

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

5 **44-23-41. Accounting on petition by foreign tax official.**

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

15 **44-23-42. Noncompliance by administrator of nonresident -- "State" defined.**

16 Failure to comply with any of the provisions of §§ 44-23-39 — 44-23-41 bars any
17 executor or administrator from the right to a final accounting or discharge in any probate court in
18 this state. The word "state" for the purposes of §§ 44-23-39 — 44-23-41 includes any territory of
19 the United States, the District of Columbia, and any foreign country.

20 **44-23-43. Reciprocal laws required -- Liberal construction -- Remission of intangible**
21 **property.**

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

34 **44-23-44. Exercise of statutory power.**

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

8 ~~**44-23-45. Liberal construction -- Incidental powers.**~~

9 ~~The provisions of this chapter and chapter 22 of this title shall be interpreted and~~
10 ~~construed liberally in order to accomplish the purpose of those chapters, and the tax administrator~~
11 ~~has, in addition to the powers in those chapters specified, mentioned and indicated, all additional~~
12 ~~implied and incidental powers which may be proper and necessary to effect and carry out,~~
13 ~~perform and execute all the powers specified, mentioned and indicated in those chapters.~~

14 ~~**44-23-46. Severability.**~~

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

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

21 ~~CHAPTER 44-23.1~~

22 ~~Uniform Estate Tax Apportionment~~

23 ~~**44-23.1-1. Definitions.**~~

24 ~~In this chapter:~~

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

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

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

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

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

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

5 **44-23.1-2. Apportionment.**

6 ~~Unless the will provides, the tax is apportioned among all persons interested in the estate.~~
7 ~~The apportionment is made in the proportion that the value of the interest of each person~~
8 ~~interested in the estate bears to the total value of the interests of all persons interested in the~~
9 ~~estate. The values used in determining the tax are used for that purpose.~~

10 **44-23.1-3. Procedure for determining apportionment.**

11 ~~(a) The court having jurisdiction over the administration of the estate of a decedent~~
12 ~~determines the apportionment of the tax. If there are no probate proceedings, the superior court of~~
13 ~~the county where the decedent was domiciled at death determines the apportionment of the tax~~
14 ~~upon the application of the person required to pay the tax.~~

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

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

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

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

29 **44-23.1-4. Method of proration.**

30 ~~(a) The fiduciary or other person required to pay the tax may withhold from any property~~
31 ~~of the decedent in his or her possession, distributable to any person interested in the estate, the~~
32 ~~amount of tax attributable to his or her interest. If the property in possession of the fiduciary or~~
33 ~~other person required to pay the tax and distributable to any person interested in the estate is~~
34 ~~insufficient to satisfy the proportionate amount of the tax determined to be due from the person,~~

1 ~~the fiduciary or other person required to pay the tax may recover the deficiency from the person~~
2 ~~interested in the estate. If the property is not in the possession of the fiduciary or other person~~
3 ~~required to pay the tax, the fiduciary or the other person required to pay the tax may recover from~~
4 ~~any person interested in the estate the amount of the tax apportioned to the person in accordance~~
5 ~~with this chapter.~~

6 ~~(b) If property held by the fiduciary or other person is distributed prior to final~~
7 ~~apportionment of the tax, the fiduciary or other person may require the distributee to provide a~~
8 ~~bond or other security for the apportionment liability in the form and amount prescribed by the~~
9 ~~fiduciary, with the approval of the court having jurisdiction of the administration of the estate.~~

10 ~~**44-23.1-5. Allowance for exemptions, deductions, and credits.**~~

11 ~~(a) In making an apportionment, allowances are made for any exemptions granted, any~~
12 ~~classification made of persons interested in the estate and for any deductions and credits allowed~~
13 ~~by the law imposing the tax.~~

14 ~~(b) Any exemption or deduction allowed by reason of the relationship of any person to~~
15 ~~the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing~~
16 ~~that relationship or receiving the gift. When an interest is subject to a prior present interest which~~
17 ~~is not allowable as a deduction, the tax apportioned against the present interest is paid from~~
18 ~~principal.~~

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

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

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

33 ~~**44-23.1-6. No apportionment between temporary and remainder interests.**~~

34 ~~No interest in income and no estate for years or for life or other temporary interest in any~~

1 ~~property or fund is subject to apportionment as between the temporary interest and the remainder.~~
2 ~~The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the~~
3 ~~corpus of the property or funds subject to the temporary interest and remainder.~~

4 **44-23.1-7. Exoneration of fiduciary.**

5 ~~Neither the fiduciary nor other person required to pay the tax is under any duty to~~
6 ~~institute any suit or proceeding to recover from any person interested in the estate the amount of~~
7 ~~the tax apportioned to that person until the expiration of the three (3) months next following final~~
8 ~~determination of the tax. A fiduciary or other person required to pay the tax who institutes the suit~~
9 ~~or proceeding within one year after the three (3) month period is not subject to any liability or~~
10 ~~surcharge because any portion of the tax apportioned to any person interested in the estate was~~
11 ~~collectible at a time following the death of the decedent but thereafter became uncollectible. If the~~
12 ~~fiduciary or other person required to pay the tax cannot collect from any person interested in the~~
13 ~~estate the amount of the tax apportioned to the person, the amount not recoverable is paid from~~
14 ~~the residuary estate. To the extent that the residuary estate is not adequate, the balance is~~
15 ~~equitably apportioned among the other persons interested in the estate who are subject to~~
16 ~~apportionment.~~

17 **44-23.1-8. Action by nonresident, reciprocity.**

18 ~~Subject to this section, a fiduciary acting in another state or a person required to pay the~~
19 ~~tax who is domiciled or resident in another state may institute an action in the courts of this state~~
20 ~~and may recover a proportionate amount of the federal estate tax or an estate tax payable to~~
21 ~~another state or of a death duty due by the decedent's estate to another state from a person~~
22 ~~interested in the estate who is either domiciled or resident in this state or who owns property in~~
23 ~~this state subject to attachment or execution. For the purposes of the action, the determination of~~
24 ~~apportionment by the court having jurisdiction of the administration of the decedent's estate in the~~
25 ~~other state is prima facie correct. The provisions of this section apply only if the state in which~~
26 ~~the determination of apportionment was made affords a substantially similar remedy.~~

27 **44-23.1-9. Uniformity of interpretation.**

28 ~~This chapter shall be applied and construed as to effectuate its general purpose to make~~
29 ~~uniform the law with respect to the subject of this chapter among those states, which enact it.~~

30 **44-23.1-10. Short title.**

31 ~~This chapter may be cited as the "Uniform Estate Tax Apportionment Act".~~

32 **44-23.1-11. Severability.**

33 ~~If any provision of this chapter or the application of this chapter to any person or~~
34 ~~circumstance is held invalid, the invalidity does not affect other provisions or applications of the~~

1 ~~chapter, which can be given effect without the invalid provision or application, and to this end the~~
2 ~~provisions of this chapter are severable.~~

3 ~~**44-23.1-12. Time of application of chapter.**~~

4 ~~This chapter does not apply to taxes due on account of the death of decedents dying prior~~
5 ~~to six (6) months after July 6, 1971.~~

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

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LC004268
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO TAXATION -- ESTATE AND TRANSFER TAXES

- 1 This act would repeal the estate tax and transfer tax.
- 2 This act would take effect upon passage.

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LC004268
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