

**MICHIGAN ESTATE TAX ACT**  
**Act 188 of 1899**

An act to provide for the taxation of estates and generation-skipping transfers of property; to prescribe the powers and duties of certain personal representatives and state departments; to provide for the assessment and collection of the tax; and to provide for the administration and enforcement of this act.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

*The People of the State of Michigan enact:*

**205.201 Inheritance tax; taxable transfers; residents; nonresidents; transfer in contemplation of death; presumption; power of appointment; personal property exemption; conditions; exception; exemption of property passing to trustee of trust agreement or deed under terms of contract of insurance; unincorporated foundation; winding up; exemption of foreign benevolent, charitable, religious, or educational entities; reciprocity; effective date of exemption; refund; exemption of transfer to surviving spouse; conditions; definitions.**

Sec. 1. (1) A tax is imposed upon the transfer of any property, real or personal, of the value of \$100.00 or over, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, not exempt by law in this state from taxation on real or personal property or not heretofore or hereafter existing within this state as incorporated foundations or not heretofore existing within this state as established nonprofit unincorporated foundations operated exclusively for benevolent, charitable, or educational purposes, in the following cases:

(a) When the transfer is by will or by the intestate laws of this state from any person dying seized or possessed of the property while a resident of this state.

(b) When the transfer is by will or intestate law of property within the state, and the decedent was a nonresident of the state at the time of his or her death.

(c) When the transfer is of property made by a resident or by nonresident, when the nonresident's property is within this state, by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor or intended to take effect, in possession or enjoyment at or after such death. Any transfer of a material part of this property in the nature of a final disposition or distribution made by the decedent within 2 years prior to his or her death, except in case of a bona fide sale for a fair consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this section. The tax shall also be imposed when any such grantee, vendee, or donee becomes beneficially entitled in possession or expectancy to any property or the income of the property by any such transfer, whether made before or after the passage of this act.

(d) Whenever any person or persons, corporation or association, whether voluntary or organized pursuant to law, shall exercise a power of appointment derived from any disposition of property made either before or after the passage of this act, the appointment when made shall be deemed a transfer taxable under this act in the same manner as though the property to which the appointment relates belonged absolutely to the donee of the power and had been bequeathed or devised to the donee by will; and whenever any person or persons, corporation or association, whether voluntary or organized pursuant to law, possessing such a power of appointment so derived shall omit or fail to exercise the power of appointment within the time provided, in whole or in part, a transfer taxable under this act shall be deemed to take place to the extent of the omission or failure, in the same manner as though the person or persons, corporation or association thereby becoming entitled to the possession or enjoyment of the property to which the power related had succeeded thereto by a will of the donee of the power failing to exercise the power, taking effect at the time of the omission or failure. This subdivision is construed so that the exercise of a power of appointment or the omission or failure to exercise a power of appointment does not constitute a taxable transfer under this act if the transfer, by the donor of the power, of the property to which the appointment relates is not described within subdivision (a), (b), or (c).

(2) Notwithstanding subsection (1), a tax shall not be imposed in respect of personal property, except tangible personal property having an actual situs in this state, if 1 of the following apply:

(a) The transferor at the time of the transfer was a resident of a state or territory of the United States, or of any foreign country, which at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents of this state, except tangible personal property having an actual situs in that state or territory or foreign country.

(b) If the laws of the state, territory, or country of residence of the transferor at the time of the transfer contained a reciprocal exemption provision under which nonresidents were exempted from transfer taxes or death taxes of every character in respect of personal property, except tangible personal property having an actual situs therein, provided the state, territory, or country of residence of such nonresidents allowed a similar exemption to residents of the state, territory, or country of residence of the transferor. For the purposes of this section the District of Columbia and possessions of the United States shall be considered territories of the United States. As used in this subsection, "foreign country" and "country" mean both any foreign country and any political subdivision of that country, and either of them of which the transferor was domiciled at the time of his or her death. For the purposes of this section, "tangible personal property" shall be construed to exclude all property commonly classed as intangible personal property, such as deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, evidences of debt, and like incorporeal personal property.

(3) Notwithstanding subsection (1), a tax shall not be imposed in respect of property passing to a trustee or trustees of any trust agreement or trust deed heretofore or hereafter executed by a resident or nonresident decedent by virtue of or under the terms and provisions of any contract or contracts of insurance heretofore or hereafter in force, insuring the life of such decedent, and paid or payable at or after the death of the decedent to the trustee or trustees for the benefit of a beneficiary or beneficiaries having any present or future, vested, contingent, or defeasible interest under such trust deed or trust agreement.

(4) If an unincorporated foundation provided tax exempt status by subsection (1) ceases to operate if its funds are diverted from the lawful purposes of its organization, or if it becomes unable to lawfully serve its purposes, the legislature may by law provide for the winding up of its affairs and for the conservation and disposition of its property, in such way as may best promote and perpetuate the purposes for which the unincorporated foundation was originally organized.

(5) Every transfer to any corporation, society, institution, or person or persons, or association of persons for benevolent, charitable, religious, or educational purposes, organized, existing, or operating under the laws of or within a state or territory of the United States, other than this state, or of the District of Columbia, also shall be exempt from taxation under this act, if at the date of the transfer which, excepting as to gifts by living persons, shall be deemed to be the date of decedent's death, the laws of the state or territory or of the District of Columbia, under which such corporation, society, institution, person or persons, or association of persons was organized, existing, or operating did not impose a death tax of any character in respect to property transferred to such a corporation, society, institution, person or persons, or association of persons organized, existing, or operating under the laws of or within this state, or if at the date of the transfer the laws of the state or territory or of the District of Columbia contained a reciprocal provision under which such a transfer to such a corporation, society, institution, person or persons, or association of persons organized, existing, or operating under the laws of or within another state or territory or of the District of Columbia were exempted from death taxes of every character, if the other state or territory or of the District of Columbia allowed a similar exemption to such a corporation, society, institution, person or persons, or association of persons organized, existing, or operating under the laws of another state or territory or of the District of Columbia.

The exemption provided in this subsection shall be effective with respect to transfers from decedents whose death occurred on or after May 1, 1950. Any tax previously paid on transfers made exempt by this subsection shall be refunded.

(6) Notwithstanding subsection (1), but subject to subsection (7), if the decedent dies after December 31, 1982 and if the decedent makes or has made a transfer otherwise subject to tax under this act to the surviving spouse of the decedent or to the surviving spouse of the decedent and another person or persons, and if this transfer qualifies for the marital deduction for purposes of the federal estate tax in the estate of the decedent or if this transfer would have qualified for the federal estate tax marital deduction if the transfer had been included in the gross estate of the decedent for purposes of the federal estate tax, the transfer, using values as finally determined for purposes of this act, shall be exempt from taxation under this act.

(7) The exemption provided by subsection (6) shall be subject to the following:

(a) On the death of the first spouse to die, if the executor properly elects to treat a transfer or specific portion of a transfer as qualified terminable interest property, then on the death of the surviving spouse, the transfer of qualified terminable interest property, using values on the death of the surviving spouse, shall be considered a transfer of the surviving spouse subject to subsection (1). For purposes of determining tax rates and exemptions applicable to such transfer, the relationship of each successor on the death of the surviving spouse shall be to the spouse to which the successor bears the closer relationship, and other transfers from the surviving spouse to such successors shall be taken into account first. If the executor is not required by federal law to file a federal estate tax return, the provisions in this subsection will apply if the executor makes an irrevocable election to have them apply on or before 9 months after the date of decedent's death, and files

such election on or before that date with the revenue division of the department of treasury.

(b) If a transfer to the surviving spouse, or to the surviving spouse and other persons, is of an interest in a group of assets not all of which are subject to tax under this act, for purposes of the application of subsection (6), on the death of the first spouse to die, the surviving spouse or the surviving spouse and others persons, shall be considered to have received a pro rata portion of the group of assets in the same proportion that the value of that portion of the group of assets not subject to tax under this act bears to the value of the entire group of assets.

(8) For purposes of subsections (6) and (7):

(a) "Executor" means that term as defined by section 2203 of the internal revenue code.

(b) "Qualified terminable interest property" means a transfer or a specific portion of a transfer which the executor elects to treat as qualified terminable interest property, as that term is defined by section 2056(b)(7) of the internal revenue code, for purposes of the federal estate tax or for purposes of subsection (7), to the extent subsections (6) and (7) apply to the transfer or specific portion of the transfer.

(c) The inheritance tax imposed on the estate of the surviving spouse with respect to qualified terminable interest property shall be paid from qualified terminable interest property unless the surviving spouse's will specifically provides otherwise.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14524;—Am. 1919, Act 148, Eff. Aug. 14, 1919;—Am. 1923, Act 257, Eff. Aug. 30, 1923;—Am. 1929, Act 231, Imd. Eff. May 21, 1929;—CL 1929, 3672;—Am. 1941, Act 302, Eff. Jan. 10, 1942;—CL 1948, 205.201;—Am. 1949, Act 177, Eff. Sept. 23, 1949;—Am. 1951, Act 75, Imd. Eff. May 28, 1951;—Am. 1962, Act 168, Eff. Mar. 28, 1963;—Am. 1982, Act 351, Imd. Eff. Dec. 21, 1982;—Am. 1992, Act 65, Imd. Eff. May 28, 1992.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### **205.201a Death taxes of estates of non-resident decedents; executor or administrator; duties; filing and form of proof; notice to domiciliary state; final account; applicability; construction.**

Sec. 1a. (1) The terms "death tax" and "death taxes", as used in the 5 following subsections, include inheritance, succession, transfer and estate taxes and any taxes levied against the estate of a decedent upon the occasion of his or her death.

(2) Before the expiration of 18 months after the qualification in any probate court in this state of any executor of the will or administrator of the estate of any non-resident decedent, the executor or administrator shall file with the court proof that all death taxes, together with interest or penalties on those taxes, which are due to the state of domicile of the decedent, or to any political subdivision, have been paid or secured, or that no taxes, interest, or penalties are due, as the case may be, unless it appears that letters testamentary or of administration have been issued on the estate of the decedent in the state of his or her domicile, in subsections (3), (4), (5), or (6), called the domiciliary state.

(3) The proof required by subsection (2) may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state. If that proof has not been filed within the time limited in subsection (2), and if within that time it does not appear that letters testamentary or of administration have been issued in the domiciliary state, the register of probate shall immediately upon the expiration of the time notify by mail the official or body of the domiciliary state charged with the administration of the death tax laws with respect to that estate, and shall state in the notice so far as is known to him or her the name, date of death, and last domicile of the decedent, the name and address of each executor or administrator, a summary of the values of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to the decedent at the time of his or her death, and the fact that the executor or administrator has not filed the proof required in subsection (2). The register shall attach to the notice a plain copy of the will and codicils of the decedent, if he or she died testate, or, if he or she died intestate, a list of his or her heirs and next of kin, so far as is known to such register. Within 60 days after the mailing of the notice the official or body charged with the administration of the death tax laws of the domiciliary state may file with the probate court in this state a petition for an accounting in the estate, and the official or body of the domiciliary state shall, for the purposes of this section, be a party interested for the purpose of petitioning the probate court for the accounting. If the petition is filed within 60 days, the probate court shall order an accounting. When the accounting is filed and approved, the probate court shall decree either the payment of any tax found to be due to the domiciliary state or subdivision of that state or the remission to a fiduciary, appointed or to be appointed by the probate court or other court charged with the administration of estates of decedents of the domiciliary state, of the balance of the intangible personalty after the payment of creditors and expenses of administration in this state.

(4) No final account of an executor or administrator of a non-resident decedent shall be allowed unless 1 of the following applies:

(a) Proof has been filed as required by subsection (2).

(b) Notice under subsection (3) has been given to the official or body charged with the administration of the death tax laws of the domiciliary state, and either of the following applies:

(i) That official or body has not petitioned for an accounting under subsection (3) within 60 days after the mailing of the notice.

(ii) An accounting has been had under subsection (3), a decree has been made upon the accounting, and it appears that the executor or administrator has paid the sums and remitted such securities, if any, as he was required to pay or remit by such decree.

(c) It appears that letters testamentary or of administration have been issued by the domiciliary state and that no notice has been given under subsection (3).

(5) Subsections (1) to (4), inclusive, shall apply to the estate of a non-resident decedent, only in case the laws of the domiciliary state contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance, as finally determined by the state treasurer, of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this state, when the estates are administered in whole or in part by a probate court, or other court charged with the administration of estates of decedents, in such other state.

(6) Subsections (1) to (5) shall be liberally construed in order to ensure that the domiciliary state of any non-resident decedent whose estate is administered in this state shall receive any death taxes, together with interest and penalties thereon, due to it from the estate of the decedent.

**History:** Add. 1937, Act 76, Eff. Oct. 29, 1937;—CL 1948, 205.201a;—Am. 2002, Act 347, Imd. Eff. May 23, 2002.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### EXCEPTIONS AND LIMITATIONS.

### **205.202 Tax on certain transfers of property; exemptions; tax rate on excess; exemption applicable to beneficiary's interest; allowance granted by court order to widow or family of decedent; tax rate in cases other than those specified; exemption on transfer of property or ownership of family-owned business.**

Sec. 2. (1) Where the persons entitled to a beneficial interest in the property are the grandfather, grandmother, father, mother, husband, wife, child, legally adopted child, stepchild, brother, sister, wife or widow of a son, or the husband or widower of a daughter of the decedent grantor, donor, or vendor, or for the use of a person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a parent, if the relationship began at or before the child's seventeenth birthday and continued until the death of the decedent grantor, donor, or vendor, or to or for the use of a lineal descendant of or a lineal descendant of a stepchild of the decedent grantor, donor, or vendor, the transfer of property of the clear market value of \$10,000.00 or for a decedent who dies after December 31, 1992 but before January 1, 1994, \$15,000.00, for a decedent who dies after December 31, 1993 but before January 1, 1995, \$25,000.00, or, for a decedent who dies after December 31, 1994, \$50,000.00 is exempt from all taxation under this act.

(2) Where the transfer is to a husband or wife the transfer of property of the clear market value of \$65,000.00 shall be exempt from all taxation under this act. If property is not transferred to a minor child or children, the widow shall be entitled to an additional exemption of \$5,000.00 for each child to whom property is not transferred.

(3) If the clear market value of the property transferred to each of the persons included in the classes specified in subsection (1) exceeds the exemptions specified, the exemptions shall first be deducted from the value of the property. When the clear market value of the property does not exceed \$50,000.00 before deducting the exemptions, the transfer of the property in excess of the exemptions and up to \$50,000.00 shall be taxed at the rate of 2% of the clear market value of the property. When the clear market value of the property exceeds \$50,000.00 the excess over exemptions of the first \$50,000.00 shall be taxed as provided in this subsection and the transfer of that portion of the property in excess of \$50,000.00 and up to \$250,000.00 shall be taxed at the rate of 4% of the clear market value of the property. The transfer of that portion of the property in excess of \$250,000.00 and up to \$500,000.00 shall be taxed at the rate of 7% of the clear market value of the property. The transfer of that portion of the property in excess of \$500,000.00 and up to \$750,000.00 shall be taxed at the rate of 8% of the clear market value of the property. The transfer of that portion of the property in excess of \$750,000.00 shall be taxed at the rate of 10% of the clear market value of the property.

(4) The exemptions of section 1 and subsections (1), (2), and section 2d shall apply and be granted to each beneficiary's interest in the property, and not to the entire estate of a decedent. A deduction or exemption from the tax shall not be made for an allowance granted by the order of a court for the maintenance and support of the widow or family of a decedent pending the administration of the estate when there is income from the estate accruing after death, which is available to pay the allowance, or for a longer period than 1 year, or for a greater amount than is actually used and expended for the maintenance and support of the widow or family for 1 year.

(5) Except as provided in this act, in cases other than those specified in subsection (3), the tax shall be at the rate of 12% upon the clear market value of the property transferred not exceeding \$50,000.00, 14% upon all in excess of \$50,000.00 and up to \$500,000.00, and 17% upon all in excess of \$500,000.00.

(6) For the estate of a decedent who dies after December 31, 1992, a tax is not imposed under this section on the transfer of any property, real or personal, of a family-owned business or the transfer of the ownership of a family-owned business to a qualified heir or heirs.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1913, Act 30, Eff. Aug. 14, 1913;—Am. 1915, Act 198, Eff. Aug. 24, 1915;—CL 1915, 14525;—Am. 1919, Act 148, Eff. Aug. 14, 1919;—Am. 1923, Act 257, Eff. Aug. 30, 1923;—Am. 1925, Act 380, Eff. Aug. 27, 1925;—Am. 1929, Act 35, Imd. Eff. Apr. 8, 1929;—CL 1929, 3673;—Am. 1935, Act 161, Imd. Eff. June 6, 1935;—CL 1948, 205.202;—Am. 1971, Act 55, Imd. Eff. July 6, 1971;—Am. 1978, Act 628, Imd. Eff. Jan. 6, 1979;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1993, Act 54, Imd. Eff. June 3, 1993.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

### **205.202a Additional estate tax; purpose and construction of section; tax on generation-skipping transfers; "federal estate tax" defined.**

Sec. 2a. (1) If the total of inheritance taxes levied and imposed by this act upon the inheritance or transfers of property of a resident or nonresident decedent does not equal or exceed the maximum credit for state death taxes allowable to the estate of the decedent against the federal estate tax imposed with respect thereto, there is levied and imposed an additional estate tax that is equal to the differences between the maximum credit allowed and the tax otherwise imposed by this act.

(2) A proper reduction of the amount of tax levied under subsection (1) shall be made on account of any real and tangible personal property located outside this state that is a part of the gross transfers of a resident decedent.

(3) The tax levied under subsection (1) upon the transfers of nonresident decedents shall be that proportion of the total tax as the gross property within this state bears to the gross property of the decedent wherever located.

(4) The purpose of this section is to obtain the maximum benefit of the credit allowed under the provisions of the federal estate tax and it shall be liberally construed to effect this purpose.

(5) The additional tax shall be levied and assessed upon the transfers and against the interests of beneficiaries liable for inheritance taxes, who would be liable to pay the federal estate tax before deducting the credit. The person required to file the federal estate tax return shall file a duplicate of the federal return and all adjustments, corrections, and the final determination of that return with the probate court. Upon the final determination of the federal estate tax and the maximum credit allowable, appropriate adjustment shall be made to any partial or interim inheritance tax determinations or orders.

(6) A tax is imposed upon every generation-skipping transfer in which the original transferor is a resident of this state at the date of the transfer by the original transferor. The tax is equal to the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states. This tax shall be reduced by the amount of all generation-skipping taxes paid to states other than this state, which amount shall not exceed an amount equal to the proportional share of that maximum allowable federal credit that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in states other than this state bears to the gross value of all transferred property subject to generation-skipping taxes wherever located. A tax is imposed upon every generation-skipping transfer in which the original transferor is not a resident of this state at the date of the transfer by the original transferor but in which the property transferred includes real or tangible personal property located in this state. The tax is an amount equal to the proportional share of the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in this state bears to the gross value of all transferred property subject to generation-skipping transfer taxes wherever located. The time for the filing of the return and the due date of the taxes under this subsection are the same as the filing of the return date and due date of the federal generation-skipping transfer tax provided for in the

internal revenue code.

(7) "Federal estate tax" means the tax levied and imposed under the provisions of the internal revenue code, in effect on the date of death of the decedent.

**History:** Add. 1971, Act 55, Imd. Eff. July 6, 1971;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1993, Act 54, Imd. Eff. June 3, 1993.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### **205.202b Repealed. 1971, Act 55, Imd. Eff. July 6, 1971.**

**Compiler's note:** The repealed section pertained to additional inheritance taxes.

**Popular name:** Inheritance Tax

#### **205.202c Amount received by surviving spouse pursuant to survivor benefit plan, annuity, retirement plan, or pension.**

Sec. 2c. An amount received by a surviving spouse as a result of the death of a decedent pursuant to a survivor benefit plan, an annuity, retirement plan, or pension shall not be subject to the tax imposed by this act.

**History:** Add. 1978, Act 357, Imd. Eff. July 20, 1978.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### **205.202d Tax on transfer of qualified farm real property to qualified heir; exemption conditioned on execution of farmland development rights agreement; election to defer taxes due; affidavit; powers and duties of probate judge; sale of real property or ceasing to use real property for agricultural use; notice; amount due state; applicability of subsections (1) to (5) and (7); exemption under MCL 205.202.**

Sec. 2d. (1) The transfer of qualified farm real property to the qualified heir shall be exempt in the amount of 50% of the clear market value from all taxation under this act if the qualified heir executes a farmland development rights agreement pursuant to part 361 (farmland and open space preservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.36101 to 324.36117 of the Michigan Compiled Laws. The qualified heir who is party to an executed farmland development rights agreement may elect to defer the balance of the taxes due under this act on the transfer of qualified farm real property for a period of 10 years without penalty or interest. The executor, administrator, or trustee of the estate and the qualified heir may make the election provided by this subsection by filing an affidavit with the judge of probate, which shall be made in the time and manner and with the content prescribed by the judge of probate. The judge of probate shall consider all of the following:

(a) Whether both the executor, administrator, or trustee of the estate and the qualified heir have made the election provided by this subsection by filing an affidavit within the prescribed time and manner.

(b) Whether the proposed transfer is to a qualified heir as defined in section 21.

(c) Whether the proposed transfer is of qualified farm real property as defined in section 21.

(2) The judge of probate may request assistance from either the soil conservation district agency or the state land use agency in finding if the real property in question is farmland. If the judge of probate finds all of the factors described in subsection (1), the judge of probate shall issue an order which shall suspend for a period of 6 months the payment of any tax imposed by this act, authorize the transfer of the qualified farm real property to the qualified heir, and require the qualified heir of the qualified farm real property to apply for a farmland development rights agreement pursuant to part 361 of Act No. 451 of the Public Acts of 1994 within 30 days after the date of the order. The judge of probate shall notify the state land use agency in the department of natural resources of this order. If the qualified heir fails to apply for a farmland development rights agreement, the tax imposed by this act shall be immediately due and there shall be added the maximum penalty and interest allowed in section 4 and any costs the judge of probate considers appropriate for this failure. The procedures, provisions and terms of a farmland development rights agreement shall be consistent with part 361 of Act No. 451 of the Public Acts of 1994. If the state land use agency either executes on behalf of the state a farmland development rights agreement or rejects an application for that agreement, it shall notify the judge of probate. Beginning 10 years after the effective date of the farmland development rights agreement, the 50% exemption for qualified farm real property provided by subsection (1) shall be a permanent exemption if the requirements of the farmland development rights agreement are satisfied under part 361 of Act No. 451 of the Public Acts of 1994. If the owner of record of real property subject to a

farmland development rights agreement either sells the real property or ceases to use the real property for an agricultural use, the owner of record shall immediately notify the state land use agency and the commissioner of revenue of the sale or the nonagricultural use in form and content as prescribed by each.

(3) If real property subject to a farmland development rights agreement is sold by the owner of record within 5 years after the effective date of the agreement, the following amount shall be immediately due to the state by the seller:

(a) Taxes shall not be due if the successor in title is another qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement. The exempt and deferred tax liability shall be transferred to the successor in title.

(b) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest if the successor in title is not a qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement.

(c) The total amount of otherwise exempt and deferred taxes shall be due with interest at the rate of 3/4 of 1% per month compounded from the time the exemption was received until the taxes are paid if the request by the owner of record for relinquishment of the farmland development rights agreement is approved pursuant to section 36111(2)(b) of part 361 of Act No. 451 of the Public Acts of 1994, being section 324.36111 of the Michigan Compiled Laws.

(d) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest, in a case where the farmland development rights agreement is relinquished by the state pursuant to either section 36110(2) or 36111(2)(a) of part 361 of Act No. 451 of the Public Acts of 1994, being sections 324.36110 and 324.36111 of the Michigan Compiled Laws.

(4) If real property subject to a farmland development rights agreement is sold by the owner of record not less than 6 but not more than 10 years after the effective date of the agreement, a proration of the remaining months multiplied by the following amount shall be immediately due to the state by the seller:

(a) Taxes shall not be due if the successor in title is another qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement. The exempt and deferred tax liability shall be transferred to the successor in title.

(b) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest if the successor in title is not a qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement.

(c) The total amount of otherwise exempt and deferred taxes shall be due with interest at the rate of 3/4 of 1% per month compounded added to this amount from the time this exemption was received until the taxes are paid if the request by the owner of record for relinquishment of the farmland development rights agreement is approved pursuant to section 36111(2)(b) of part 361 of Act No. 451 of the Public Acts of 1994.

(d) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest if the farmland development rights agreement is relinquished by the state pursuant to either section 36110(2) or 36111(2)(a) of part 361 of Act No. 451 of the Public Acts of 1994.

(5) If the owner of record ceases to use real property subject to a farmland development rights agreement for an agricultural use, the total amount of otherwise and deferred taxes shall be due with interest at the rate of 3/4 of 1% per month compounded added to this amount from the time the exemption was received until the taxes are paid.

(6) Subsections (1) through (5) apply to a transfer of a decedent who dies before January 1, 1993. Subsection (7) applies to a transfer of a decedent who dies after December 31, 1992.

(7) For the estate of a decedent who dies after December 31, 1992, the transfer of qualified farm real and personal property or the transfer of the ownership of qualified farm real and personal property to a qualified heir is exempt from taxation under section 2.

**History:** Add. 1978, Act 628, Imd. Eff. Jan. 6, 1979;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1996, Act 54, Imd. Eff. Feb. 26, 1996.

**Compiler's note:** In subsection (5), the phrase "total amount of otherwise and deferred taxes" evidently should read "total amount of otherwise exempt and deferred taxes."

For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## **205.202e Credit for certain inheritances or transfers.**

Sec. 2e. For a decedent dying after December 31, 1991, for inheritances or transfers not subject to the additional tax imposed under section 2a, there is allowed a credit for 10% of the tax imposed under this act.

**History:** Add. 1992, Act 65, Imd. Eff. May 28, 1992.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

LIEN OF TAX AND PAYMENT THEREOF.

**205.203 Tax and interest on tax as lien on property transferred; liability; payment; notice; deferral where decedent professional artist; proceeding to enforce lien; parties; information; evidence of determination and nonpayment of tax; service of process on infant or mentally incompetent person; guardian ad litem; decree; redemption; affidavit; order to sell property; adjournment, publication, and report of sale; deeds; fees.**

Sec. 3. (1) The tax and the interest on the tax provided for in this act shall become a lien upon the property transferred until paid, unless payment of the tax has been deferred as permitted by this section or section 2d. If a deferral of payment is granted under this section or section 2d, the lien provided by this section shall attach at the end of the deferral period granted by this section or section 2d.

(2) The person to whom the property is transferred and the administrator, executor, and trustee of every estate transferred, shall be personally liable for the tax until its payments; except that the executor or administrator shall not be personally liable for the tax upon a reversion or remainder consisting of real estate where the election provided for in section 7 or the deferral in this section or section 2d is made. The tax shall be paid to the state.

(3) When the inheritance tax, administration fee, and penalty and interest, if applicable, for the estate are paid, the revenue commissioner shall provide notice, on a form prescribed by the department, to the judge of probate who shall file and preserve it in that office. It shall be a voucher in settlement of the accounts of the executor, administrator, or trustee of the estate upon which the tax is paid. The preparation and mailing of the receipts shall not prejudice the right of the state to a review of the determination fixing the tax. The receipts issued under this section shall show whether the amount paid is a payment of the tax upon any beneficial interest or upon the entire transfer. An executor, administrator, or trustee of an estate, in settlement of which a tax is due under this act, shall not be discharged and the estate or trust closed by a decree of the court, unless there is produced a receipt signed by the revenue commissioner.

(4) All taxes imposed by this act shall accrue and be due and payable at the time of transfer, which is the date of death, except that taxes upon the transfer of any estate, property, or interest limited, conditioned, dependent, or determinable upon the happening of a contingency or future event, by reason of which the clear market value cannot be ascertained at the time of the transfer, shall accrue and become due and payable when the persons or corporations beneficially entitled shall come into actual possession or enjoyment.

(5) The tax and the interest on the tax provided for in this act may be deferred for reasonable cause shown by the executor, administrator, or trustee of the estate of a decedent who was a professional artist at the date of his or her death for not more than 10 years without penalty or interest. The executor, administrator, or trustee of the estate may make the deferral provided by this subsection by filing an affidavit with the judge of probate, which shall be made in the time and manner and with the content prescribed by the judge of probate. The judge of probate shall determine whether there is reasonable cause shown to grant a deferral, the length of time for the deferral, and the manner of payment of the tax.

(6) A proceeding to enforce a lien against any property under this act shall be instituted by information, in the name of the people of this state, addressed to the circuit court for the county in which the property is situated. It shall be signed by the attorney general and need not be otherwise verified. A person owning the property or an interest in the property as shown by the record in the office of the register of deeds, or by the records of the probate court, at the time of the commencement of the proceedings, shall be made a party to the action, and all other persons having a right or interest in the property, may make themselves parties to the proceeding, on motion to the court, and notice to complainant, and may file their intervening or cross-claims, or answers claiming the benefit of cross-claims, and notices of lis pendens therein. Intervening or cross-claims shall be made on oath.

(7) The information shall show the name of the deceased, the date of death, the place of residence at the time of death, the county in which the estate was probated, the description of the property transferred, whether by will or under the intestate laws, and against which the lien exists, the name of the person or persons to whom it was transferred, the amount of taxes determined by the probate court upon the transfer, the date of the determination and whether the property is owned by the person or persons to whom it was transferred by will or under the intestate laws or by a subsequent purchaser, naming that purchaser. The information shall also show that the taxes determined upon the transfer of the property have not been paid and the amount of interest due upon the date of the filing of the information. In those cases in which the property upon which the lien exists is owned by the person or persons to whom it was transferred by will or under the intestate laws, the petition for relief shall be that the court determine the amount due; that the defendant pay to the county



treasurer of the county, in which the estate was probated, for and in behalf of this state, whatever sum shall appear to be due, together with the costs of the proceeding, and that in default of that payment the property upon which the lien exists, may be sold in the manner provided in this act, to satisfy the taxes, interest, and cost.

(8) In those cases in which the property upon which the lien exists is owned by a subsequent purchaser, the petition for relief shall be that the court determine the amount due and that the property upon which the lien exists may be sold in the manner provided in this act to satisfy the taxes, interest, and costs of the proceeding.

(9) The information may contain other and further allegations and petitions considered material and permitted by the rules and practice of the court.

(10) A certified copy of the order of determination of the inheritance tax, for which the lien exists, certified by either the judge or register of probate of the court that determined the tax or by the revenue commissioner, may be attached to the information. When attached, the copy shall be considered a part of the information and shall be prima facie evidence of the determination of the inheritance tax and the accruing of the lien against the property. A certificate of the revenue commissioner stating that the inheritance tax, or any part of the tax determined upon the transfer of the property upon which the lien exists, has not been paid, may be attached to the information. When attached, the certificate shall be considered a part of the information and shall be prima facie evidence of the nonpayment of the amount of the tax and interest shown to be unpaid by the certificate.

(11) If an infant, insane, or otherwise mentally incompetent person has an interest in the property upon which the lien exists, service of process shall be made upon that person in the same manner and with the same effect as upon persons not under a disability, whether the infant, insane, or otherwise mentally incompetent person is within or without the jurisdiction.

(12) After the issuing and service of process against the infant, insane, or otherwise incompetent person, a guardian ad litem may be appointed for the infant, insane, or otherwise incompetent person by the court upon motion of the attorney general, or the guardian ad litem may be appointed by the court upon the request of the infant, and in the case of an insane or otherwise incompetent person, at the request of the person's general guardian.

(13) If upon the hearing of the cause it appears that the inheritance taxes or interest, or both, upon the transfer of the property upon which the lien exists have not been paid, the court shall decree the amount of taxes and interest on the taxes found to be due, together with costs to be determined by the court, to be paid by the person or persons owning the property, or any interest in the property, within 3 months after the entry of the decree and that in default of payment that the property upon which the lien exists, be sold to satisfy the taxes, interest, and costs. If it appears that the person or persons to whom was transferred the property by will or under the intestate laws have parted with their interest before the institution of the proceedings provided for in this section, and that the property is owned by a subsequent purchaser, the court shall decree that the property be sold to satisfy the taxes, interest, and costs, unless the owner satisfies the taxes, interest, and costs within 3 months after the entry of the decree.

(14) In cases in which it appears that 2 or more pieces or parcels of land were transferred by will or under the intestate laws to 1 person, and that that person, before the institution of the proceedings provided for in this section, has parted with any or all of the pieces or parcels of land, and that the court can ascertain from the order of determination the amount of inheritance tax determined upon the transfer of each piece or parcel, and that the lien against all of the pieces or parcels is being foreclosed in 1 proceeding, the court may decree the sale of that piece or parcel to satisfy the amount of tax determined upon the transfer of that piece or parcel, together with the interest thereon and pro rata costs of the proceeding. A piece or parcel of property shall not be sold to satisfy taxes, interest, and costs within 3 months after the entry of the decree.

(15) If the person or persons owning the property or an interest in the property, or the person's heirs, executors, administrators, or a person lawfully claiming under that person, within 6 months after the date of the sale redeems the entire premises sold, by paying to the register of deeds in whose office the deed is deposited, as provided by subsection (20), for the benefit of the purchaser, or the purchaser's executors, administrators, or assigns the sum which was bid on the date of sale, with interest, at the rate of 6%, together with the sum of \$1.00 as a fee for the care and custody of the redemption money, and the fee paid by the purchaser for recording his or her deed, then the deed is void. If a distinct lot or parcel separately sold is redeemed leaving a portion of the premises unredeemed, then the deed shall be void only to the parcel or parcels redeemed.

(16) The register of deeds shall not determine the amount necessary for redemption. The purchaser shall attach an affidavit with the deed to be recorded that states the exact amount required to redeem the property under subsection (15), including any daily per diem amounts, and the date by which the property must be redeemed shall be stated in the certificate of the commissioner or other person making the sale. The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person

redeeming the property in computing the exact amount required to redeem the property. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser shall accept the amount computed by the designee.

(17) If it appears to the court after the expiration of 3 months from the date of entry of the decree from a certificate of the state of Michigan to whom the taxes, interest, penalties, and costs were to be paid, attached to a petition of the attorney general for an order of sale of the property, that the same have not been paid, the court shall enter an order directing the circuit court commissioner, or some other person duly authorized by the order of the court, to sell the property. The sale shall be at public vendue between the hours of 9 a.m. and 6 p.m. at the courthouse or at another place as the court directs, within 60 days after the date of the order and on the date specified on the order. The court may, if necessary, by further order adjourn the sale from time to time. The circuit court commissioner, or other person authorized to make the sale, may, if bids are not received equal to the amount of taxes, interest, and costs, adjourn the sale from time to time, but the sale shall not be adjourned for more than 60 days at any 1 time.

(18) Upon receipt of a certified copy of the order of sale the circuit court commissioner, or other person duly authorized by the order of the court to conduct the sale, shall publish the sale in some newspaper printed in the county or another paper as the court may direct, once in each week, for 3 weeks in succession. If the sale is adjourned by order of the court, or by the circuit court commissioner, or other person duly authorized by the order of the court, to conduct the sale the same publication shall be had of the order or notice adjourning the sale as is provided in this section for publishing the order of sale. Proof of publication shall be filed with the court before the sale.

(19) The circuit court commissioner, or other person authorized to make the sale shall make and file a report of the sale. The report shall be entitled in the court and cause, and shall be certified and filed with the court.

(20) Deeds shall thereupon be executed by the circuit court commissioner or other person making the sale, specifying the names of the parties in the action, the date of the determination of the inheritance tax, the name of the deceased, the county in which the estate was probated, with a description of the premises and the amount for which each parcel of land described was sold. The commissioner, or other person making the sale, shall indorse upon each deed when the deed shall become operative, if the premises are not redeemed according to law. The deed or deeds, as soon as practicable and within 20 days after the sale, shall be deposited with the register of deeds of the county in which the land described is situated, and the register shall indorse on the deed the time the deed was received, shall record the deed at length in a book to be provided for in his or her office for that purpose, and shall index the deed in the regular index of deeds. The fees for recording the deed shall be paid by the purchaser and be included among the other costs and expenses. If the premises or a parcel of the premises shall be redeemed, the register of deeds shall write on the face of the record the word "Redeemed", stating at what date the entry is made and signing the entry with his or her official signature. Unless the premises described in the deed, or a parcel of the premises, is redeemed within the time limited for redemption, as provided in this section, the deed shall thereupon as to all parcels not redeemed, become operative and shall vest in the grantee named in the deed, the grantee's heirs or assigns all the right, title, and interest therein which the person or persons received either from the deceased by reason of the transfer to them by will or under the intestate laws, or as subsequent purchasers.

(21) The proceeds of each sale provided for in this section shall be paid to the treasurer of the county where the estate was probated, to be applied to the discharge of the tax, interest, penalty, and costs, and if there is any surplus, it shall be brought into court for the use of the defendant, or the person entitled to the money, subject to the order of the court.

(22) The circuit court commissioner, or other person authorized by the court to make the sale, shall be entitled to only the following fees: For attending and adjourning a sale, \$1.00; for attending and making a sale, \$1.50; mileage, 1 way, 10 cents per mile; executing deed or deeds on real estate sales, 25 cents for each deed necessarily executed; making and filing a report of sale, \$1.00. The cost of publishing any legal notices required to be published shall be at the rate of 70 cents per folio for the first insertion, and 35 cents per folio for each subsequent insertion. The fees which are provided for in this act shall be added by the circuit court commissioner, or other person duly authorized to make the sale, to the tax, interest, penalties, and costs awarded by the court as charges against the land.

(23) The amount stated in any affidavits recorded under this section shall be the amount necessary to satisfy the requirements for redemption under this section.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1907, Act 155, Imd. Eff. June 17, 1907;—CL 1915, 14526;—CL 1929, 3675;—CL 1948, 205.203;—Am. 1978, Act 628, Imd. Eff. Jan. 6, 1979;—Am. 1980, Act 474, Imd. Eff. Jan. 17, 1981;—Am. 1993, Act 54, Eff. Sept. 1, 1993;—Am. 2004, Act 539, Eff. Mar. 30, 2005.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

### **205.203a Application of statute of limitations.**

Sec. 3a. No statute of limitations shall apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax, penalty or interest, prescribed by this act, until the final determination of the tax by the judge of probate is entered, or unless an order has been entered assigning the estate and this provision shall be construed as having been in effect as of the date of the original enactment of the inheritance tax law: Provided, however, That when a final order of determination of inheritance tax has been made by the judge of probate the statute of limitations shall begin to run on the date of such final determination or order, as to the transfers of real and personal property listed on such final order of determination, or, if there be no order of determination, from the date of such order assigning the estate.

**History:** Add. 1955, Act 232, Imd. Eff. June 18, 1955.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## DISCOUNT, INTEREST AND PENALTY.

### **205.204 Accrual of tax; when tax due and payable; failure or refusal to file return, report, or remittance; partial or interim payment; extension; penalty; interest; waiver of penalty; filing; waiver of filing.**

Sec. 4. (1) The tax imposed by this act accrues on the date of death and is due and payable on or before the expiration of 9 months after the date of death for a decedent dying before January 1, 1992 or, for a decedent dying after December 31, 1991, 105 days after the date of death or September 1, 1992, whichever is later. For a decedent dying after December 31, 1991, taxes are delinquent if paid after 105 days after the date of death or September 1, 1992, whichever is later. For a decedent dying after December 31, 1991, a penalty of 8% of the tax is added to the tax, if delinquent, for failure to pay the tax required by this act by the due date required under this subsection. For failure or refusal to pay the tax required by this act within 9 months from the accruing thereof, there is added an additional penalty of \$5.00 or 5% of the tax, whichever is greater, if the failure is for not more than 1 month or a fraction of 1 month, with an additional 5% for each additional month or fraction of a month during which the failure continues, or the tax and penalty are not paid, to a maximum of 25%. For failure to pay the tax by the due date, in addition to the penalty, there is added interest at the rate of 3/4 of 1% per month on the amount of the tax from the time the tax was accrued until the date of payment.

(2) If by reason of claims made upon the estate, necessary litigation, or other unavoidable cause of delay, the tax cannot be completely determined and paid, a partial or interim payment of not less than 50% of the total tax liability, together with a request for extension, shall be made before the due date. If the department of treasury grants the request for extension, the 8% penalty under subsection (1) is waived and an additional payment of not less than 25% of the total tax liability shall be made before 9 months from the date of death. Interest at the rate of 3/4 of 1% per month is added to the amount of tax unpaid for the period of extension until the tax is determined or could be determined. If the balance of the tax due remains unpaid for more than 30 days from the date the tax is determined or could be determined, there is added a penalty of \$5.00 or 5% of the tax not paid, whichever is greater, if the failure is for not more than 1 month or a fraction of 1 month, with an additional 5% for each additional month or fraction of a month during which the failure continues, or the tax and penalty are not paid, to a maximum of 25%. In addition to the penalty, there is added interest at the rate of 3/4 of 1% per month on the amount of the tax from the time the tax was determined or could have been determined until the date of payment.

(3) If payment is deferred as provided in section 7, interest is charged at the rate of 3/4 of 1% per month from the accrual of the tax until the date of payment.

(4) For failure or refusal to file an information return or information report required by this act, within the time specified by this act, there is added a penalty of \$5.00 per day for each day for each separate failure or refusal. The total penalty for each separate failure or refusal shall not exceed \$200.00.

(5) If a return, report, or remittance is filed after the time specified by this act and it is shown to the satisfaction of the department that the failure to file was due to reasonable cause and not to willful neglect, the penalty may be waived.

(6) The administrator, personal representative, executor, or trustee of each estate shall file a form, as prescribed by the department, containing data required for the proper administration of the tax not later than the due date or within the period of extension granted under subsection (2). The filing of this form may be waived by the department of treasury.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1907, Act 155, Imd. Eff. June 17, 1907;—CL 1915, 14527;—CL 1929, 3676;—CL 1948, 205.204;—Am. 1971, Act 55, Imd. Eff. July 6, 1971;—Am. 1975, Act 6, Imd. Eff. Mar. 25, 1975;—Am. 1992, Act 65, Imd. Eff. May 28, 1992.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### COLLECTION OF TAX BY EXECUTORS, ADMINISTRATORS AND TRUSTEES.

### **205.205 Sale of property of estate to pay tax; collection from devisee; legacy not delivered until tax paid; money legacy.**

Sec. 5. Every executor, administrator, trustee or other person shall have full power to sell or mortgage so much of the property of the decedent as will enable him or her to pay such tax in the same manner as he or she might be entitled by law to do for the payment of the debts of a decedent or ward; except that in cases where the transfer is to 2 or more persons in common, and 1 or more of them shall have paid his or her proportion of such tax, such executor, administrator, trustee, or other person shall sell or mortgage only the interest of such of the persons to whom the property was transferred as have not paid the tax, to pay the tax due upon such share or shares. Any such administrator, executor, trustee or other person having in charge or in trust any legacy or property for distribution subject to such tax, shall deduct the tax therefrom; and within 30 days thereafter shall pay over the same to the state of Michigan as herein provided. If such legacy or property be not in money, he or she shall collect the tax thereon as determined by the judge of probate from the person entitled thereto, unless such tax has been paid to the state of Michigan. He or she shall not deliver or be compelled to deliver any specific legacy or property subject to tax under this act to any person until the tax assessed thereon has been paid to him or her or to the state of Michigan. If any such legacy shall be charged upon or payable out of real property and is taxable under this act, the devisee charged with the payment of such legacy shall deduct such tax therefrom and pay it to the state of Michigan or the administrator, executor or trustee. And the payment thereof shall be enforced by the executor, administrator or trustee, in the same manner as payment of the legacy might be enforced, or by the attorney general or prosecuting attorney by the appropriate legal proceeding. If such legacy shall be given in money to any such person for a limited period, the administrator, executor, trustee or other person shall retain the tax upon the whole amount, but if not in money, he or she shall make such application to the court having jurisdiction of an accounting by him or her, to make an apportionment, if the case require it, of the sum to be paid by such legatee and for such further order relative thereto as the case may require.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14528;—CL 1929, 3677;—CL 1948, 205.205;—Am. 1993, Act 54, Eff. Sept. 1, 1993.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### REFUND OF TAX ERRONEOUSLY PAID.

### **205.206 Tax refund.**

Sec. 6. If any debt shall be allowed against the estate of a decedent after the payment of any legacy or distributive share from which any tax has been deducted or upon which it has been paid by the person entitled to the legacy or distributive share, and that person is required to refund the amount of the debts, an equitable proportion of the tax shall, upon the order of the court, be paid to him or her by the executor, administrator, trustee or other person, if the tax has not been paid to the state of Michigan. When any amount of said tax shall have been paid erroneously to the state of Michigan by reason of the allowance of debts or otherwise, it shall be lawful for the state treasurer, upon satisfactory proof by the order or certificate of the proper court of the allowance of the debts or of the reversal, correction or alteration, in accordance with law, of the order fixing the tax, to draw his or her warrant upon the state treasury for the erroneous payment, to be refunded to the executor, administrator, trustee, person or persons entitled to receive it, and charge the warrant to the fund which receives credit from the payment of taxes under the provisions of this act. However, applications for the refunding of erroneous tax shall be made within 6 months from the allowance of the debts or the reversal, correction or alteration of the order.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14529;—CL 1929, 3678;—CL 1948, 205.206;—Am. 1993, Act 54, Eff. Sept. 1, 1993;—Am. 2002, Act 347, Imd. Eff. May 23, 2002.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### DEFERRED PAYMENT.

### **205.207 Election to make deferred payments; bond.**

Sec. 7. Any person or corporation beneficially interested in the reversion or remainder of any property chargeable with a tax under this act, and executors, administrators and trustees thereof, may elect within 1 year from the transfer thereof as herein provided, not to pay such tax until the person or persons beneficially interested therein shall come into the actual possession or enjoyment thereof. If it be personal property, the person or persons so electing shall give a bond to the state in the penalty of 3 times the amount of such tax, with such sureties as the judge of probate of the proper county may approve, conditioned for the payment of such tax and interest thereon at such time and period as the person or persons beneficially interested therein may come into the actual possession or enjoyment of such property, which bond shall be executed and filed and a full return of such property upon oath made to the probate court within 1 year from the date of the transfer thereof, as herein provided, and such bond must be renewed every 5 years: Provided, That the time fixed herein for making such election may be extended by the court in its discretion for a period not to exceed 2 years.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14530;—CL 1929, 3679;—CL 1948, 205.207.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## TAXES UPON DEVISES AND BEQUESTS IN LIEU OF COMMISSIONS.

### **205.208 Bequest to executors or trustees subject to tax.**

Sec. 8. If a testator bequeath or devise his property to 1 or more executors or trustees in lieu of their commissions or allowances, to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed or devised above the amount of commissions or allowances prescribed by law shall be taxable under this act.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14531;—CL 1929, 3680;—CL 1948, 205.208.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## LIABILITY OF CERTAIN CORPORATIONS TO TAX.

### **205.209 Delivering or surrendering possession or custody of assets of resident decedent; notice; further duty not imposed.**

Sec. 9. A safe and collateral deposit company, trust company, corporation, bank, or other institution, or person having in possession or custody, securities, deposits, or other assets at the date of death of a decedent who was a resident of this state, belonging to such resident decedent, or belonging to such resident decedent and 1 or more persons, except securities, deposits, or other assets the indicated ownership or registered title of which denotes ownership by right of survivorship, and except securities, deposits, or other assets contained in a safe deposit box or compartment shall not make delivery or surrender possession or custody thereof to the personal representative of such resident decedent, or to joint owners except if the indicated ownership or registered title denotes ownership by right of survivorship, unless notice of the time and place of such intended delivery or surrender of possession or custody is served, either personally or by registered mail, upon the department of treasury pursuant to section 9f. Nothing contained in this section shall be construed as imposing any further duty on such safe and collateral deposit company, trust company, corporation, bank, or other institution, or person with respect to those securities, deposits, or other assets.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1913, Act 17, Eff. Aug. 14, 1913;—Am. 1915, Act 195, Eff. Aug. 24, 1915;—CL 1915, 14532;—Am. 1919, Act 145, Eff. Aug. 14, 1919;—CL 1929, 3681;—Am. 1941, Act 235, Eff. Jan. 10, 1942;—CL 1948, 205.209;—Am. 1982, Act 378, Eff. Mar. 30, 1983.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

### **205.209a Delivering or surrendering possession or custody of property of nonresident decedent; waiver, receipt, or probate court order; notice; duties of institution or person.**

Sec. 9a. A safe and collateral deposit company, trust company, corporation, bank, or other institution, or person having in possession or custody, at the date of death of a decedent who was a nonresident of this state, any property, belonging to the nonresident decedent, or belonging to the nonresident decedent and 1 or more persons, except intangible personal property and except securities, deposits, or other assets contained in a safe

deposit box or compartment shall not make delivery or surrender possession or custody thereof to the foreign personal representative of the nonresident decedent, or to joint owners except if the indicated ownership or registered title denotes ownership by right of survivorship, unless furnished with a waiver issued by the attorney general with respect thereto, or a receipt, or an order of the probate court as provided for in section 18. If any securities, deposits, or other assets contained in a safe deposit box or compartment become subject to the jurisdiction of a probate court of this state through regular probate proceedings, any safe and collateral deposit company, trust company, corporation, bank, or other institution, or person having possession or custody thereof may make delivery or surrender possession or custody thereof to the personal representative appointed by a probate court of this state, without being furnished with such waiver, receipt, or order, if notice of the time and place of such intended delivery or surrender of possession or custody is served, either personally or by registered mail, upon the department of treasury pursuant to section 9f. The duties of the safe and collateral deposit company, trust company, corporation, bank, or other institution, or person with respect thereto shall be the same as those pertaining to securities, deposits, or other assets of a resident decedent as provided in section 9.

**History:** Add. 1941, Act 235, Eff. Jan. 10, 1942;—CL 1948, 205.209a;—Am. 1962, Act 168, Eff. Mar. 28, 1963;—Am. 1982, Act 378, Eff. Mar. 30, 1983.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### **205.209b Repealed. 1982, Act 378, Eff. Mar. 30, 1983.**

**Compiler's note:** The repealed section pertained to safe deposit boxes.

**Popular name:** Inheritance Tax

#### **205.209c Wrongful delivery or surrender of possession or custody of assets; liability for tax, interest, and penalty; payment enforceable in civil action by attorney general; taxation of costs.**

Sec. 9c. Any safe and collateral deposit company, trust company, corporation, bank, or other institution, or person delivering or surrendering possession or custody of securities, deposits, or other assets without compliance with the applicable provisions of sections 9, 9a, 9e, and 9f shall be liable for the amount of the tax and interest and penalty due or thereafter to become due with respect to the estate of any resident or nonresident decedent of which such securities, deposits, or other assets of the contents of a safe deposit box or compartment are a part, to the extent that any tax, interest, and penalty is due or may become due upon the amount of such estate represented by such securities, deposits, or other assets so delivered or surrendered, or by the contents of such safe deposit box or compartment, and the payment thereof may be enforced in a civil action instituted and maintained by the attorney general, or other person or officer duly authorized by the attorney general. Any judgment rendered in such action shall carry costs to be taxed as in other cases.

**History:** Add. 1941, Act 235, Eff. Jan. 10, 1942;—CL 1948, 205.209c;—Am. 1963, Act 100, Eff. Sept. 6, 1963;—Am. 1982, Act 378, Eff. Mar. 30, 1983.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### **205.209d Repealed. 1962, Act 168, Eff. Mar. 28, 1963.**

**Compiler's note:** The repealed section pertained to inheritance tax, prohibited discharge of mortgage of decedent from record, and contained exceptions.

**Popular name:** Inheritance Tax

#### **205.209e Payment, delivery, or surrender of custody of assets of resident decedent to other than executors or administrators; notice.**

Sec. 9e. Except as otherwise provided in this act, a safe and collateral deposit company, trust company, corporation, bank, or other institution, or person having in possession or custody, securities, deposits, or any other assets subject to tax under this act at the death of a decedent who was a resident of this state, which become payable other than to the decedent's executors or administrators upon the death or by reason of the death of the resident decedent, shall not make payment, delivery, or surrender custody thereof unless notice as prescribed by the department of treasury, of the time and place of the intended payment, delivery, or surrender is served upon the department of treasury at least 15 days prior thereto. The notice and 15-day period may be waived by the department of treasury.

**History:** Add. 1963, Act 100, Eff. Sept. 6, 1963;—Am. 1982, Act 378, Eff. Mar. 30, 1983.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

**205.209f Service of notice upon department of treasury; conditions.**

Sec. 9f. Any safe and collateral deposit company, trust company, corporation, bank, institution, or person required under section 9 or 9a to serve notice upon the department of treasury shall serve such notice on the department of treasury under conditions prescribed by the department of treasury.

**History:** Add. 1963, Act 100, Eff. Sept. 6, 1963;—Am. 1982, Act 378, Eff. Mar. 30, 1983.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

**205.209g Order to examine safe deposit box of decedent for will or burial plot deed; delivery of will or deed; receipt; removal of other items; statement of persons in attendance; fee.**

Sec. 9g. Notwithstanding section 9c, wherever it appears to the probate judge of any county in this state by petition of an interested party that a safe and collateral deposit company, trust company, corporation, bank, or other institution has leased to a decedent alone a safe deposit box in the county in which the probate court has jurisdiction and that the safe deposit box may contain a will of the decedent or a deed to a burial plot in which the decedent is to be interred, the probate judge may make an order directing the safe and collateral deposit company, trust company, corporation, bank, or other institution to permit a person named in the order to examine the safe deposit box in the presence of an officer or other authorized employee of the safe deposit and collateral company, trust company, corporation, bank, or other institution and if a paper purporting to be a will of the decedent or a deed to a burial plot is found in the box, to deliver the will or deed to the probate register or his or her deputy. The probate register or his or her deputy shall furnish a receipt therefor to the safe and collateral deposit company, trust company, corporation, bank, or other institution. Items contained in the safe deposit box other than the will or deed shall not be removed from the safe deposit box. At the time of the opening of the safe deposit box all persons in attendance shall execute a written statement certifying as to whether or not any will or deed to a burial plot was found and that no other items were removed, which statement shall be delivered forthwith to the probate register or his or her deputy. Before the judge of probate shall enter the order there shall be paid to the probate register a fee of \$10.00, which shall be credited to the general fund of the county. If the decedent's estate is administered in any probate court in this state, the party making payment of such fee may file a claim in the estate for such amount, which shall be charged as costs of administration.

**History:** Add. 1972, Act 114, Imd. Eff. Apr. 11, 1972;—Am. 1982, Act 378, Eff. Mar. 30, 1983.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

JURISDICTION OF THE PROBATE COURT.

**205.210 Inheritance tax; jurisdiction of probate court; determination and payment of tax required prior to closing estate.**

Sec. 10. The probate court of every county of this state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent whose property is chargeable with any tax under this act, or to appoint a trustee of such estate or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of this act and to do any act in relation thereto authorized by law to be done by a judge of probate in other matters or proceedings coming within his jurisdiction, and if 2 or more probate courts shall be entitled to exercise any such jurisdiction, the judge of probate first acquiring jurisdiction hereunder shall retain the same, to the exclusion of every other judge of probate. Every petition for ancillary letters testamentary or ancillary letters of administration shall set forth a true and correct statement of all the decedent's property in this state and the value thereof.

In no case shall the judge of probate or judges of probate issue an order of final distribution or an order discharging a fiduciary unless there shall have been issued an order of determination of inheritance tax and there is filed a receipt showing the payment in full of the tax as determined.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14533;—CL 1929, 3682;—Am. 1941, Act 293, Eff. Jan. 10, 1942;—CL 1948, 205.210.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

APPOINTMENT OF APPRAISERS.

**205.211 Appraiser; appointment; appraisal of vested and contingent estates; insurance commissioner; duties; money legacy.**

Sec. 11. The judge of probate, upon the application of any interested party, including the state treasurer and county treasurers, or upon his or her own motion, shall, as often as and whenever occasion may require, appoint a competent person as appraiser to fix the clear market value at the time of the transfer of property which shall be subject to the payment of any tax imposed by this act. A description of the property and the names and residences of the persons to whom it passes shall be given by the judge of probate to the appraiser. If the property, upon the transfer of which the tax is imposed, is an estate, income or interest for a term of years or for life, or determinable upon any future or contingent estate, or is a remainder or reversion or other expectancy, real or personal, the entire property or fund by which the estate, income or interest is supported, or of which it is a part, shall be appraised immediately after the transfer, or as soon thereafter as may be practicable, at the clear market value as of that date. If the estate, income or interest is of such a nature that its clear market value cannot be ascertained at that time, it shall be appraised in like manner at the time when the value first became ascertainable. The value of every future or contingent or limited estate, income, interest or annuity, dependent upon any life or lives in being, shall be determined by the rule, method or standard of mortality and value employed by the commissioner of the office of insurance and financial services in ascertaining the value of policies of life insurance companies, except that the rate of interest for computing the present value of all future and contingent interests or estates shall be 5% per annum. The commissioner of the office of insurance and financial services shall, upon request of the state treasurer, prepare the tables of values, expectancies and other matters as may be necessary for use in computing, under the provisions of this act, the value of life estates, annuities, reversions and remainders, which shall be printed and furnished by the auditor general to the several judges of probate upon request. The clear market value of the transfer of a money legacy, presently taxable, shall for the purposes of this act be taken to be the face value of the money at the date of death of decedent.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1907, Act 155, Imd. Eff. June 17, 1907;—CL 1915, 14534;—CL 1929, 3683;—CL 1948, 205.211;—Am. 2002, Act 347, Imd. Eff. May 23, 2002.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

PROCEEDINGS BY APPRAISERS.

**205.212 Proceedings by appraisers, compensation, fees.**

Sec. 12. Every such appraiser shall forthwith give notice by mail to all such persons as he is notified by the judge of probate are interested in the property to be appraised, and to the county treasurer, of the time and place when he will appraise the property. He shall at such time and place appraise the same at its clear market value as herein prescribed, and for that purpose said appraiser is authorized to issue subpoenas to compel the attendance of witnesses before him, and to take the evidence of such witnesses under oath concerning such property and the value thereof, and he shall make report thereof and of such value in writing to said judge of probate, together with the depositions of the witnesses examined and such other facts in relation thereto and to the said matter as the said judge of probate may order and require. Every appraiser shall be reimbursed for his actual and necessary traveling and other expenses and shall be entitled to 3 dollars per day for every day actually and necessarily employed in such appraisal. The fees of the necessary witnesses shall be the same as those now paid to witnesses subpoenaed to attend a court of record. A statement in detail of such compensation and disbursements as are authorized by this section shall be approved by the judge of probate and paid by the county treasurer from the general or contingent fund of the county.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14535;—CL 1929, 3684;—CL 1948, 205.212.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

DETERMINATION BY JUDGE OF PROBATE.

**205.213 Filing report of appraiser; determining clear market value and amount of tax; petition.**

Sec. 13. (1) The report of the appraiser shall be filed in the office of the judge of probate, and from such report and other proof relating to any estate before the judge of probate, the judge of probate shall forthwith, as of course, determine the clear market value of all estates as of the date of transfer, and the amount of tax to which the same is liable, or the judge of probate may so determine the clear market value of all estates and the



amount of tax to which the same are liable without appointing an appraiser. The judge of probate may, and shall on application of the attorney general or commissioner of revenue, require the executor, administrator or trustee of any estate to file with him or her a petition containing an itemized statement, under oath, of the personal property and real property within his or her knowledge or possession or under his or her control as executor, administrator or trustee, which statement shall indicate the date from which interest and dividends were due and unpaid upon each item of the personal estate, together with the rate of such interest and also of the amount and character of any encumbrances upon such real estate at the time of the death of the deceased, and other data, such as debts, expenses of administration and other charges which constitute proper deductions in reaching a taxable remainder under the provisions of this act.

(2) The judge of probate before final determination of the tax upon the estate of decedent, may make a partial determination of tax upon any legacies or devises, or upon the real estate of a decedent, or upon the estate of the decedent as a whole, and may authorize and direct any executor or administrator to pay to the state of Michigan a sum in gross on account of the inheritance tax due from the estate when by reason of claims made against the estate, litigation, nonreceipt of final determinations made in federal estate tax returns or other unavoidable cause of delay, the tax cannot be completely determined by the court within either 105 days of the date of death or 9 months from its accrual. The judge of probate in the order determining the tax upon such estate shall state the amount authorized to be paid in gross and the date of such order.

(3) The commissioner of insurance, on the application of any judge of probate, or the commissioner of revenue, shall determine the value of any future or contingent estate, income or interest limited, contingent, dependent or determinable upon the life or lives of persons in being, upon the facts contained in any appraiser's report, or facts stated by the judge of probate, and certify the same to the commissioner of revenue or the judge of probate, and his or her certificate shall be prima facie evidence that the method of computation adopted therein is correct.

(4) The judge of probate shall immediately give notice upon the final determination by him or her of the value of any estate which is taxable under this act, and of the tax to which the same is liable, to each heir, legatee or devisee or his or her attorney and of the tax assessed upon his or her share of the estate, by mailing such notice postage prepaid to the last known address of each such persons, or his or her attorney except those who were in court in person or by attorney at the time the tax was so determined.

(5) The judge of probate upon the written application of any person interested, filed with him or her within 90 days after the final determination by him or her of any tax under this act, may grant a rehearing upon the matter of determining such tax. The attorney general may file the written application for rehearing upon the matter of determining such tax any time prior to the allowance of the final account. If the state appeals from the appraisal, assessment or determination of the tax, it shall not be necessary to give any bond. If, on rehearing, the judge shall modify his or her former determination he or she shall enter an order redetermining the tax, and make the necessary entries in the book provided for in section 17, and make report thereof to the commissioner of revenue and county treasurer as provided in section 18.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1915, Act 198, Eff. Aug. 24, 1915;—CL 1915, 14536;—CL 1929, 3685;—Am. 1947, Act 273, Eff. Oct. 11, 1947;—CL 1948, 205.213;—Am. 1971, Act 55, Imd. Eff. July 6, 1971;—Am. 1993, Act 54, Eff. Sept. 1, 1993.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## PROCEEDINGS FOR THE COLLECTION OF TAXES.

### **205.214 Collection of unpaid taxes; estate closed without payment.**

Sec. 14. If the state treasurer or the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons liable therefor to pay the same, he or she shall notify the attorney general in writing of that failure or neglect, and the attorney general may apply, or cause the prosecuting attorney of the county to apply, in behalf of the state, to the probate court for an order requiring the persons liable to pay the tax to appear before the court on a day specified, not more than 3 months after the date of the order, and show cause why the tax should not be paid. The judge of probate upon such application, and whenever it shall appear to him or her that any such tax accruing under this act has not been paid as required by law, shall issue a citation, and the service of a citation, and the time, manner, and proof of the citation and the hearing and determination of the citation, and the enforcement of the determination or order made by the judge of probate shall conform to the practice of the probate court in like cases made and provided for the service of citations out of the probate court, and the hearing and determination thereon and its enforcement, so far as the same may be applicable. In all cases where an estate has been declared closed without fixing or payment of the tax upon the transfers therein, and the attorney

general believes that the transfers are subject to a tax and the real estate in the estate is subject to a lien and anticipates the institution of proceedings for the fixing and enforcing, or the enforcing of the lien when it has been fixed, he or she may file with the register of deeds of the county a notice setting forth the fact together with a description of the real estate claimed to be subject to the lien which shall operate with the same force and effect as a *lis pendens* under existing statutes. However, the failure to file such notice shall not in any manner prejudice the rights of the state. The judge of probate or the probate clerk or register shall, upon the request of the attorney general, prosecuting attorney, or treasurer of the county, furnish 1 or more transcripts of such decree which shall be docketed and filed by the county clerk of any county of the state without fees, in the same manner and with the same effect as provided by law for filing and docketing transcripts, judgments, and decrees of circuit courts in this state. As a cumulative remedy for the collection of the tax, the state may proceed by an action of *assumpsit* in any court of competent jurisdiction. Whenever the probate judge issues a citation and undertakes the proceedings specified in this section, he or she shall certify that fact to the county treasurer, together with an itemized bill of all expenses incurred for the services of the citation, and other lawful disbursements not otherwise paid. Upon receipt of the bill, the county treasurer shall pay the bill from the general or contingent fund of the county. In all proceedings to which any county treasurer, or the state treasurer, is cited to appear under sections 11 and 12 of this act and all proceedings arising or instituted under this section, the attorney general shall represent the interests of the state, the compensation and expenses of necessary assistants and the expenses of the attorney general to be paid after approval by the attorney general on the warrant of the state treasurer out of the general fund in the state treasury.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14537;—CL 1929, 3686;—CL 1948, 205.214;—Am. 2002, Act 347, Imd. Eff. May 23, 2002.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### (RECEIPT) RECEIPTS FROM THE COUNTY TREASURER.

##### **205.215 Receipts; certified copy; recording.**

Sec. 15. Any person shall, upon written request to the department of treasury, be entitled to a certified copy of the receipt issued by the state of Michigan under section 3 of this act for the payment of any tax under this act, which receipt shall designate upon what real property, if any, such tax shall have been paid, by whom paid, and whether in full of such tax. Such receipts may be recorded in the office of the register of deeds of the county in which such property is situated, in a book to be kept by him or her for that purpose, which shall be labeled "Transfer Tax."

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14538;—CL 1929, 3687;—CL 1948, 205.215;—Am. 1993, Act 54, Eff. Sept. 1, 1993.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### FEEES FOR COUNTY TREASURER.

##### **205.216 Additional fee; credit to general fund.**

Sec. 16. The treasurer for the state of Michigan shall collect on all taxes paid under this act an additional 1/2 of 1%, which fee shall be paid to the county having jurisdiction of the decedent's estate. This fee is an administration fee for the costs incurred by the probate court in administering this act. This fee shall be credited to the general fund of the county.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1911, Act 265, Eff. Aug. 1, 1911;—CL 1915, 14539;—CL 1929, 3688;—CL 1948, 205.216;—Am. 1965, Act 160, Imd. Eff. July 15, 1965;—Am. 1993, Act 54, Eff. Sept. 1, 1993.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### BOOKS AND FORMS TO BE FURNISHED BY THE AUDITOR GENERAL.

##### **205.217 Record books furnished by state treasurer; contents; entries; form.**

Sec. 17. The state treasurer shall furnish to each judge of probate a book, which shall be a public record, in which the judge of probate shall enter a formal order containing the name of every decedent upon whose estate letters of administration or letters testamentary or ancillary letters have issued, the date of death, and place of residence at the time of death of the decedent, the names, places of residence and relationship to the decedent of his or her heirs at law, in case the decedent died intestate or left estate not disposed of by will; the

names, places of residence, and relationship to the decedent of the legatees and devisees in the will of the decedent, in case the decedent died testate, the ages of all life tenants and beneficiaries under life estates, the clear market value of the decedent's real and personal property, the clear market value of the property, real and personal, passing to each heir, legatee and devisee, and the clear market value of annuities, life estates, terms of years, and other property of the decedent, or given by the decedent in his or her will and otherwise, as fixed and determined by the judge of probate, and the amount of tax assessed thereon, and the amount of tax assessed on the share of each heir, legatee and devisee, when from the records of the court or the testimony given there appears to be property in such estate liable to tax under this act. However, a description of real estate need not be given unless the real estate is taxable under this act, in which case a sufficiently definite description shall be given to fully identify the taxable real estate and the persons to whom the several parcels are devised. The judge of probate shall also enter in the book the name, date of death, and place of residence at time of death of every decedent, grantor, vendor or donor who has made a transfer of property in contemplation of death or intended to take effect in possession or enjoyment at or after his or her death, subject to tax under this act; the name and residence of the grantee, vendee or donee and his or her relationship to the grantor, vendor or donor, the clear market value as determined by the judge of probate of the property so transferred by him or her and the tax determined by the court payable thereon. These entries shall be made from data contained in the papers filed in the probate court and testimony taken in any proceedings relating to the estate of the decedent. The judge of probate shall also enter in the book the amount of the real and personal property of the decedent as shown by the inventory thereof when made and filed in his or her office. If the judge of probate determines the amount of tax to be paid upon any legacies or devises or upon the real estate of a decedent or upon the estate of the decedent as a whole before the final determination of the tax by him or her, only such entries need be made in the book in that particular case as refer to the partial determination, and it shall be distinctly stated in the book that it is but a partial determination by the judge of probate of the tax due from the estate. Whenever the determination of the tax in such estate by the judge of probate is general, partial or final, the deductions made by the judge of probate from the full value of the estate shall be particularly specified, so that the several reasons for the deductions made clearly appear upon the record. The record required to be furnished by the state treasurer shall be in the following form, and shall be of such size and so arranged as he or she determines will best meet the requirements of this act:

Abstract of Taxable Inheritances. Vol. No. .... Page No. ....  
 State of Michigan.

The Probate Court for the County of.....

At a session of said court held at ....., in said county the ..... day of ....., A.D. ....

Present, The Honorable ....., Probate Judge.

In the matter of the inheritance tax upon transfers in the estate of ....., deceased.

In this matter it being represented to me and appearing that the said deceased was, at the time of his or her death on the ..... day of ....., a resident of ..... and possessed property the transfer of which or some interest or estate therein is taxable under the Michigan estate tax act, 1899 PA 188, MCL 205.201 to 205.256; that ..... of ..... was duly and regularly appointed ..... of the said estate and ....., and that as appears from the inventory on file in this court, the amount of property belonging to said estate is stated to be as follows:

Personal property, \$.....; real property, \$.....

It further appears and I hereby find that the debts of said deceased owing at the time of his or her death (exclusive of interest accruing thereafter) amount to \$.....; that the funeral expenses of said deceased amount to \$.....; and that the expenses of administration of the estate of said decedent (exclusive of all items of disbursement for repairs to buildings or other property belonging to, or taxes accruing after death, upon the estate of said deceased, all allowances for the support of widow and children of said deceased, expenses incurred in contesting the will of said deceased, and other items of disbursement for the benefit of the beneficiaries of said estate, not strictly expenses of administration) amount to the sum of \$.....; the total debts and expenses of administration being \$.....

After due and careful investigation, examination and consideration, I find and determine that the clear market value of all of said decedent's personal property and real estate, at the date of his or her death, was as follows: Personal property, \$.....; real property, \$....., and that after deduction therefrom of the total debts and expenses of administration (debts secured upon realty being deducted from the value of the real estate, and debts unsecured and secured on personalty being deducted from the value of the personalty), there remains subject to taxation under the provisions of said act before deducting statutory exemptions, transfers of personal property to the amount of \$.....; and transfers of real property to the amount of \$.....; and that of said transfers certain interests hereinafter set forth in detail in the schedule hereto are not

presently taxable by reason of the following contingency, rendering it impossible to determine presently the value of the interests passing and the amount of the tax thereon, namely .....

And I hereby find and determine that the tax upon the presently taxable transfers in said estate amounts to the sum of \$..... and find that the several names, residences, relationships and ages, where interest consists of life estates or annuities, of the several beneficiaries, together with the character and amount of the several interests or estates passing thereto, the rate of tax to which each is subject, and the portion of the tax fixed upon, apportioned to, and required to be borne by each of the several taxable transfers, is as set forth in detail in the following schedule:

(The schedule shall contain the following headings for the several columns and space for sufficient entries, remarks, etc.)

A	B	C	D	E
Name of Heir at Law, Legatee or Devisee to whom estate passes	Residence	Relationship	Age of Life Tenant or Annuitant	Rate of Tax .....%
F	G	H	I	J
Value of Legacy or Person Estate Passing	Value of Personal Estate Exempt	Value of Legacy or Personal Estate Taxable	Amount of Tax on Personal Estate	Value of Real Estate Passing
K	L	M	N	O
Value of Real Estate Exempt	Value of Real Estate Taxable	Amount of Tax on Real Estate	Value of Annuities, Life Estates, etc. Passing	Value of Annuities, Life Estates, etc. Exempt
P	Q	R		
Value of Annuities Life Estates, etc., Taxable	Amount of Tax on Annuities, Life Estates, etc.	Total Amount of Tax		

Remarks: Including descriptions of real estate taxed and any explanations necessary to a complete understanding of the foregoing entries.

.....

Judge of Probate.

The department of treasury may prescribe and furnish to the judge of probate, in lieu of the book and the form prescribed in this section, a form or forms containing such data as is required for proper determination of the tax.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—CL 1915, 14540;—CL 1929, 3689;—Am. 1947, Act 273, Eff. Oct. 11, 1947;—CL 1948, 205.217;—Am. 1955, Act 232, Imd. Eff. June 18, 1955;—Am. 2002, Act 347, Imd. Eff. May 23, 2002.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### REPORTS OF PROBATE JUDGE AND REGISTER OF DEEDS.

#### **205.218 Order of determination, duties of probate judge; report of register of deeds; property of nonresident, waiver, fee; petition, contents; hearing, notice; redetermination.**

Sec. 18. Each judge of probate shall, within 3 days after he shall have determined the tax and entered the order required in the preceding section, make a duly certified copy of such order upon forms furnished by the department of revenue containing all the data and matter required, 1 of which shall be immediately delivered to the county treasurer, from which data the said county treasurer shall obtain the information for making the duplicate receipt required by this act, and the other transmitted to the department of revenue. If in any calendar quarter beginning January, April, July or October first in each year, there has been no tax determined, the judge of probate shall make a report to the department of revenue affirmatively showing this fact. The register of deeds of each county shall, upon blanks prescribed and furnished by the department of revenue, as often as any deed or other conveyance is filed or recorded in his office of any property which appears to have been made in contemplation of death or intended to take effect in possession or enjoyment after the death of the grantor or vendor, make reports in duplicate containing a statement of the name and place of residence of such grantor or vendor, the name, relationship and place of residence of the grantee or vendee, and a description and the value of the property transferred and the consideration for the transfer as

stated in the instrument filed or recorded, 1 of which duplicates shall be immediately delivered to the county treasurer, and the other transmitted to the department of revenue. Whenever any non-resident shall die leaving property or any interest therein, in this state which has not been duly administered under the laws of this state and it shall be necessary to have the question of the taxation of the transfer thereof determined, such question may be presented and determined upon petition of the department of revenue to be filed by the attorney general in any probate court of this state. In any such case where the department of revenue is satisfied from the proofs submitted or obtained as hereinafter provided, that such transfer is not taxable the department of revenue may thereupon issue a waiver with respect thereto which, upon being countersigned by the attorney general, his deputy, or assistant, shall operate as a determination that such transfer is not taxable. The department of revenue shall charge and collect in advance a fee of \$1.00 for each such waiver and keep a proper record thereof. The said petition shall set forth the name of decedent; residence at time of death; and total amount of property constituting said estate; a description of and the value of all property in Michigan; and any and all such other data as may be necessary to inform the court of the facts in connection with such matter. It shall be the duty of the probate court with which such petition is filed to fix a date for hearing thereon and to give notice of such hearing in such manner as shall be prescribed. Publication of the notice of such hearing shall not be necessary unless ordered by the court. It shall be the duty of the executor, administrator, trustee or any interested party in said estate to furnish all such facts, data, information, reports and certified copies of proceedings had in connection with said estate in any other court, as shall be required by the attorney general or department of revenue or directed by the probate court. The probate court shall appoint a resident of Michigan to represent the said estate at such hearing and the person so appointed shall perform such duties as shall be required by the court. The person so appointed shall have and possess all of the powers of an executor or administrator for the purposes of this section, but shall not be personally liable for any inheritance tax in said estate and shall not be required to give any bond unless so directed by the court. The said probate court shall at the hearing on said petition or at an adjourned hearing, determine whether the transfer of such property is taxable and, if found taxable, he shall proceed as in all other cases to fix and determine the amount thereof. If it is found that the transfer of such property is not taxable, an order to that effect shall be entered in the said probate court. A redetermination of said order may be had and an appeal therefrom may be taken in the same manner provided for in this act. A certified copy of all such orders determining that there is no inheritance tax due and payable may be procured from the probate court upon the payment of 50 cents. No order shall be entered in any such case until there is filed in said probate court receipts showing full payment of all expenses incurred including compensation due the person appointed to represent said estate, all of which expenses or compensation shall be paid by the executor, administrator or any person interested in said estate. In case it may be necessary to have any such property subjected to regular probate proceedings in this state, or if any such estate shall have been administered in this state, the right to proceed under this section shall be discretionary with the probate court. This section shall not operate to relieve any such person, as is referred to in section 9c of this act from the liability therein expressed until 60 days after the date of entry of the order determining that there is no tax upon the transfers in said estate, or in case a tax is determined, until proper receipts showing payment thereof as required in section 3 of this act have been duly signed. No proceedings shall be required and no inheritance tax shall be fixed and determined or collected, and no waivers or consents shall be required for the transfer or delivery of intangible personal property of a nonresident decedent. The department of revenue may prescribe or approve a form of affidavit which may be relied upon by corporations or their transfer agents in making delivery or transfer of intangible personal property in accordance with this act.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1911, Act 73, Eff. Aug. 1, 1911;—CL 1915, 14541;—Am. 1925, Act 111, Eff. Aug. 27, 1925;—Am. 1929, Act 231, Imd. Eff. May 21, 1929;—CL 1929, 3690;—Am. 1931, Act 141, Imd. Eff. May 21, 1931;—Am. 1947, Act 273, Eff. Oct. 11, 1947;—CL 1948, 205.218;—Am. 1962, Act 168, Eff. Mar. 28, 1963.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## REPORTS OF COUNTY TREASURER.

### **205.219 Interest rate in addition to delinquent fees.**

Sec. 19. If the fee collected on the inheritance tax under section 16 for a county is not paid to the county treasurer, the state treasurer shall pay interest at the rate of 8% per annum in addition to the amount of delinquent fees then in arrears.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1907, Act 155, Imd. Eff. June 17, 1907;—Am. 1909, Act 44, Imd. Eff. Apr. 21, 1909;—CL 1915, 14542;—Am. 1917, Act 336, Imd. Eff. May 10, 1917;—CL 1929, 3691;

—CL 1948, 205.219;—Am. 1975, Act 6, Imd. Eff. Mar. 25, 1975;—Am. 1993, Act 54, Eff. Sept. 1, 1993.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## APPLICATION OF TAXES.

### 205.220 Disposition of taxes levied and collected.

Sec. 20. The taxes levied and collected under this act shall be paid into the state treasury to the credit of the general fund, to be disbursed only by appropriation of the legislature.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—CL 1915, 14543;—CL 1929, 3692;—CL 1948, 205.220;—Am. 1975, Act 6, Imd. Eff. Mar. 25, 1975.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

## DEFINITIONS.

### 205.221 Definitions.

Sec. 21. As used in this act:

(a) "Estate" or "property" means the property or interest in property of the testator, intestate, grantor, bargainor, or vendor, passing or transferred to those not specifically exempted from this act, and not as the property or interest in property passing or transferred to the individual legatees, devisees, heirs, next of kin, grantees, donees, or vendees, and includes all property or interest in property whether situated within or without this state and including all property represented or evidenced by note, certificate, stock, land, contract, mortgage or other kind or character of evidence thereof, and regardless of whether that evidence of property is owned, kept or possessed within or without this state.

(b) "Transfer" includes the passing of property or an interest in property in possession or enjoyment, present or future, by inheritance, descent, devise, bequest, grant, deed, bargain, sale, or gift in the manner prescribed in this act.

(c) "County treasurer" or "prosecuting attorney" means the county treasurer or prosecuting attorney of the county having jurisdiction pursuant to section 10.

(d) "Qualified farm real and personal property" means real and personal property located in this state that on the date of the decedent's death was devoted primarily to an agricultural use, and, for a decedent who dies before January 1, 1993, meets all the following conditions or, for a decedent who dies after December 31, 1992, meets the conditions in either subparagraph (ii) or (iii):

(i) The real property is eligible as farmland pursuant to part 361 (farmland and open space preservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.36101 to 324.36117 of the Michigan Compiled Laws.

(ii) Fifty percent or more of the adjusted value of the estate consists of the adjusted value of real or personal property that on the date of the decedent's death, was devoted primarily to an agricultural use, and that was acquired from or transferred from the decedent to a qualified heir.

(iii) Twenty-five percent or more of the adjusted value of the estate consists of the adjusted value of real property that was acquired from or transferred from the decedent to a qualified heir and that meets the requirements of subparagraph (iv).

(iv) During the 8-year period ending on the date of the decedent's death, there have been periods aggregating 5 years or more during which the real property was owned by the decedent or a qualified heir in the operation of the farm and there was material participation by the decedent or a qualified heir in the operation of the farm.

(v) The real property is designated in the agreement referred to in section 2d.

(e) "Adjusted value" as used in subdivision (d) means:

(i) For the estate, the clear market value of the estate for purposes of this act, reduced by any proper deductions consisting of unpaid mortgages, debts, or liens on the property.

(ii) For real or personal property, the clear market value of that property for purposes of this act, reduced by any proper deductions consisting of unpaid mortgages, debts, or liens on the property.

(f) "Agricultural use" means property that is substantially devoted to the production of plants and animals useful to people, including forages and sod crops; grains and feed crops; dairy and dairy products; poultry; livestock, including breeding and grazing; fish; timber; fruits; vegetables; flowers; Christmas trees; plants or trees grown in an agricultural nursery; and other similar uses and activities.

(g) "Qualified heir" means an individual entitled to any beneficial interest in property who is the grandfather, grandmother, father, mother, husband, wife, child, legally adopted child, stepchild, brother,

sister, wife or widow of a son, or husband or widower of a daughter of the decedent grantor, donor, or vendor, or for the use of a person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a parent, if the relationship began at or before the child's seventeenth birthday and continued until the death of the decedent grantor, donor, or vendor, or to or for the use of a lineal descendant of or a lineal descendant of a stepchild of the decedent grantor, donor, or vendor, or farm business partner, or to or for the use of any person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a farm business partner.

(h) "Soil conservation district agency" means the agency of the district where the real property is located created pursuant to part 93 (soil conservation districts) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.9301 to 324.9313 of the Michigan Compiled Laws.

(i) "State land use agency" means the land use agency within the department of natural resources.

(j) "Material participation" shall be determined in the same manner as used in section 2032a of the internal revenue code and in any federal regulations relating to that section.

(k) "Family-owned" means participation by the decedent or a qualified heir in the operation of the business for not less than 500 hours in 5 out of the 8 years immediately preceding the decedent's death and either of the following:

(i) The business is 100% owned by the decedent and qualified heirs, or for a corporation, 100% of the stock is owned by the decedent and qualified heirs.

(ii) The business is 49% or more owned by the decedent, or for a corporation, 49% or more of the stock is owned by the decedent.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1907, Act 328, Imd. Eff. June 28, 1907;—CL 1915, 14544;—CL 1929, 3693;—CL 1948, 205.221;—Am. 1978, Act 628, Imd. Eff. Jan. 6, 1979;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1996, Act 54, Imd. Eff. Feb. 26, 1996.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### **205.222 Report.**

Sec. 22. Not later than January 1, 1996, the state treasurer shall submit a report to the committees of the house and senate having jurisdiction over matters of taxation that contains the following:

(a) The cost of the exemptions and reductions provided for in sections 2(6) and 2d(7).

(b) A summary and review of policy and procedures concerning the taxation of the exercise of or failure to exercise limited powers of appointment.

**History:** Add. 1992, Act 65, Imd. Eff. May 28, 1992.

**Compiler's note:** Former section 22 was not compiled.  
For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

#### **205.223 Applicability of sections.**

Sec. 23. Notwithstanding any other provisions of this act, the following apply:

(a) Sections 1 through 22 apply only to the estate of a resident or nonresident decedent dying before October 1, 1993 or to a generation-skipping transfer that occurs after December 31, 1992 but before October 1, 1993.

(b) Sections 31 to 56 apply only to the estate of a resident or nonresident decedent dying after September 30, 1993 or to a generation-skipping transfer that occurs after September 30, 1993.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.231 Short title.**

Sec. 31. This act shall be known and may be cited as the "Michigan estate tax act".

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.232 Tax on transfer of estate of residents and nonresidents.**

Sec. 32. (1) A tax is imposed upon the transfer of the estate of every person who at the time of death was a resident of this state. The tax is equal to the maximum allowable federal credit under the internal revenue code for estate, inheritance, legacy, and succession taxes paid to the states. This tax shall be reduced by the amount of all estate, inheritance, legacy, and succession taxes paid to states other than Michigan, which

amount shall not exceed an amount equal to the proportional share of that maximum allowable federal credit that the gross value of all real and tangible personal property located in states other than this state bears to the gross value of all property included in the decedent's gross estate wherever located.

(2) A tax is imposed upon the transfer of property located in this state of every person who at the time of death was not a resident of this state. The tax is an amount equal to the proportional share of the maximum allowable federal credit under the internal revenue code for estate, inheritance, legacy, and succession taxes paid to the states, that the gross value of all real and tangible personal property located in this state bears to the gross value of all property included in the decedent's gross estate wherever located.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.233 Tax on generation-skipping transfer for residents and nonresidents.**

Sec. 33. (1) A tax is imposed upon every generation-skipping transfer in which the original transferor is a resident of this state at the date of the transfer made by the original transferor. The tax is equal to the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states. This tax shall be reduced by the amount of all generation-skipping taxes paid to states other than this state, which amount shall not exceed an amount equal to the proportional share of that maximum allowable federal credit that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in states other than this state bears to the gross value of all transferred property subject to generation-skipping taxes wherever located.

(2) A tax is imposed upon every generation-skipping transfer in which the original transferor is not a resident of this state at the date of the transfer by the original transferor but in which the property transferred includes real or tangible personal property located in this state. The tax is an amount equal to the proportional share of the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in this state bears to the gross value of all transferred property subject to generation-skipping transfer taxes wherever located.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.234 Notification as personal representative; waiver of notice.**

Sec. 34. The personal representative, within 2 months after the decedent's death, or within 2 months after qualifying as the personal representative, whichever is later, shall give written notice that he or she is the personal representative to the department on a form prescribed by the department. However, the department may waive the filing of this notice.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.235 Filing return; waiver; extension of time for filing.**

Sec. 35. The personal representative of every estate required by the laws of the United States to file a federal return shall file a return with the department on or before the last day prescribed by law for filing the federal return including all supplemental data, if any, necessary to determine the correct tax under this act. However, the department may waive this requirement. The department shall extend the time for filing the return if the time for filing the federal return is extended. The aggregate of extensions granted under this act with respect to any return shall not exceed the aggregate of extensions allowable under the internal revenue code for the federal return.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.236 Transfer taxes; payment; extension; interest and penalties.**

Sec. 36. The transfer taxes imposed by this act are due and payable on or before the last day prescribed by law for paying the corresponding federal transfer taxes pursuant to the federal return excluding extensions and shall be paid by the personal representative to the department. The department shall extend the time for payment of the tax or any part of the tax if the time for paying the federal transfer tax is extended. The aggregate of extensions granted under this act with respect to any transfer shall not exceed the aggregate of extensions allowable under the internal revenue code with respect to that transfer. Interest and penalties as provided for in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, shall be added to the amount of the tax unpaid for the period of the extension.



**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.237 Liability.**

Sec. 37. The person liable for payment of the federal transfer tax is personally liable for the tax, penalties, and interest imposed by this act to the same extent as the federal transfer tax.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.238 Amended return; filing; claim for refund; final determination of federal transfer tax; refund prohibited under certain conditions.**

Sec. 38. (1) If the federal authorities increase or decrease the amount of the federal transfer tax, an amended return shall be filed with the department showing all changes made in the original return and the amount of increase or decrease in the federal transfer tax within 60 days after a final determination if there is an increase in the amount owed the state, or within 1 year after a final determination if there is a refund owed by the state.

(2) A claim for a refund of the tax shall be made within 1 year from the date of the final determination of the federal transfer tax. For purposes of this subsection, a determination is considered to have become final on the date of the internal revenue service closing letter or the date of receipt of a refund of a federal transfer tax, whichever is later.

(3) Notwithstanding any other provision of this section, a tax may not be refunded pursuant to any allegation that the decedent was a resident of another state unless this state is a party to a compromise agreement between the decedent's transferee and the other state or unless this state is allowed to intervene as a party in any action in the other state in which the residency of the decedent is at issue.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.239 Assessment of additional tax interest or penalty.**

Sec. 39. If upon examination of any return the department determines that any additional tax interest or penalty is owing, the tax together with any applicable penalty and interest shall be assessed.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.240 Calculation of penalties and interest; accrual of interest on refunds.**

Sec. 40. (1) Penalties and interest provided for under sections 23 and 24 of 1941 PA 122, MCL 205.23 and 205.24, shall be calculated on the balance of the tax due.

(2) Interest on refunds shall accrue in accordance with section 30 of 1941 PA 122, MCL 205.30.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

#### **205.241 Issuance of receipts; determination of tax and discharge from personal liability; operation of discharge.**

Sec. 41. Upon payment of the tax under this act, the department shall issue to the personal representative receipts in triplicate, each of which is sufficient evidence of payment and entitles the personal representative to be credited and allowed that amount by the probate court having jurisdiction. If the personal representative files a complete return and makes a written application to the department for determination of the amount of the tax and discharge from personal liability for the tax, the department as soon as possible, but not later than 1 year after receipt of the application, shall notify the personal representative of the amount of the tax. Upon payment of the tax, the personal representative is discharged from personal liability for any additional tax found to be due and is entitled to receive from the department a receipt in writing showing the discharge. The department shall prepare the discharge of liability receipt in a form recordable by the register of deeds. However, a discharge does not operate to release the gross estate of the lien of any additional tax subsequently found to be due while the title to the gross estate remains in the personal representative or in the heirs, devisees, or distributees. If after a discharge is given the title to any portion of the gross estate has passed to a bona fide purchaser for value, that portion of the gross estate is not subject to a lien or any claim or demand for the tax.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

#### **205.242 Apportionment of tax.**

Sec. 42. The tax due under this act shall be apportioned as provided by the uniform estate tax apportionment act, Act No. 144 of the Public Acts of 1963, being sections 720.11 to 720.21 of the Michigan Compiled Laws, or any successor act in effect.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.243 Tax as lien against gross estate; attachment to consideration received for property; waiver.**

Sec. 43. The tax imposed under section 32 is a lien upon the gross estate of the decedent until paid in full. Any part of the gross estate used for the payment of claims against the estate and expenses of its administration is divested of any lien for taxes. Any part of the gross estate, other than real estate, of a resident decedent transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth is divested of the lien, and the lien then attaches to the consideration received for the property from the purchaser, mortgagee, or pledgee. Any real estate that is part of the gross estate of a decedent transferred to a bona fide purchaser or mortgagee is divested of the lien, the lien attaches to the consideration received for the real property, and the department shall issue a waiver releasing the property from the lien in a form recordable with the register of deeds if 1 or more of the following apply:

(a) The transfer of the real estate is necessary for payment of claims against the estate and expenses of administration even though other assets are then available for sale or mortgage.

(b) The department is satisfied that no tax liability exists or that the tax liability of an estate has been fully discharged or provided for.

(c) Except when the department has filed a notice of tax lien with the county in which the real estate is located, a partial payment is made with the department of an amount equal to either of the following, whichever is applicable:

(i) If the transfer occurs before the due date for the filing of the return including extensions, 8% of the net cash proceeds payable at closing to the seller for a sale or to the mortgagor for a mortgage.

(ii) If the transfer occurs after the due date for the filing of the return including extensions, 16% of the net cash proceeds payable at closing to the seller for a sale or to the mortgagor for a mortgage, or the amount of the unpaid tax as reflected on the return filed with the department, whichever is less.

(d) The seller, purchaser, or mortgagee makes a partial payment of an amount determined by the department to be sufficient to ensure payment of the tax.

(e) The seller, purchaser, or mortgagee makes a partial payment of an amount determined by the probate court to be sufficient to ensure payment of the tax.

(f) The seller or mortgagor is a person who holds the real property as a surviving joint tenant or tenant by the entireties.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

#### **205.244 Personal representative; distribution without payment of tax or release from lien; personal liability.**

Sec. 44. If a personal representative makes a distribution either in whole or in part of any of the property subject to the transfer tax under this act to the heirs, next of kin, distributees, legatees, or devisees without having paid or secured the tax due the state under this act or without having obtained the release of the property from the lien of the tax, the personal representative becomes personally liable for the tax, accrued penalties, and interest due the state, or as much of the tax, penalties, and interest that remains due and unpaid, to the full extent of the full value of any property belonging to the person or estate that comes into the personal representative's possession, custody, or control as required by law.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.245 Personal representative; rights and powers.**

Sec. 45. Every personal representative has the same right and power to take possession of or sell, convey, and dispose of real estate as assets of the estate for the payment of the tax imposed by this act as the personal representative has for the payment of the debts of the decedent.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.246 Probate court; jurisdiction; appeal of department decision; action to recover taxes, penalties, and interest; other actions.**

Sec. 46. (1) The probate court has exclusive jurisdiction of any court proceedings concerning this act. Every action shall be brought in the probate court for the county in which the estate is being or has been administered or, if there has been no administration in this state, in the county where any of the property of the estate is situated.

(2) A personal representative or any person who is in actual or constructive possession of any property included in the gross estate of the decedent who is aggrieved by a decision by the department may appeal that decision by petitioning the probate court with notice to the department and to all other interested parties as determined by court rule.

(3) An action may be brought by the department in the probate court within the times provided by this act to recover the amount of any taxes, penalties, and interest due under this act.

(4) Nothing in this act shall be construed to prevent a personal representative from bringing or maintaining an action in probate court within any period otherwise prescribed by law to determine any question bearing upon the taxable situs of property, the domicile of a decedent, or otherwise affecting the jurisdiction of the state to impose a tax under this act with respect to a particular item or items of property.

(5) All appeals of determinations made by the department under this act shall be made to the probate court.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.247 Final account.**

Sec. 47. A final account of a personal representative of the estate when the value of the gross estate wherever situated exceeds the federal unified credit equivalent under the internal revenue code shall not be allowed by the probate court unless the account shows, and the probate judge finds, that the tax imposed by the provisions of this act upon the personal representative, which has become payable, has been paid. The department's certificate of nonliability for the tax or its receipt for the amount of tax paid shall be conclusive in the proceedings as to the liability or the payment of the tax.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.248 Probate court; notice of certain information to department.**

Sec. 48. Upon the request of the department each probate court of this state, on or before the tenth day of every month, shall notify the department of the names of all decedents; the names and addresses of the respective personal representatives appointed; the amount of the bonds, if any, required by the court; and the probable value of the estates, in all estates of decedents whose wills have been probated or upon which letters of authority have been sought or granted during the preceding month. A probate court shall also furnish any further information from the records and files of the probate court in regard to those estates requested by the department.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.249 Corporation as personal representative; powers and duties.**

Sec. 49. If the personal representative of the estate of a nonresident is a corporation duly authorized, qualified, and acting as a personal representative in the jurisdiction of the domicile of the decedent, the corporation has the same powers and duties concerning notices and the filing of returns required by this act and may bring and defend actions as authorized or permitted by this act to the same extent as an individual personal representative. However, nothing in this act shall be taken or construed as authorizing a corporation not authorized to do business in this state to qualify or act as a personal representative, an administrator, or in any other fiduciary capacity, if otherwise prohibited by the laws of this state, except to the extent expressly provided in this act.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.250 Certificate of nonliability.**

Sec. 50. If it appears to the department that an estate is not subject to any tax under this act, the department shall issue to the personal representative or his or her legal representative, or to the heirs, devisees, or distributees of the decedent a certificate in writing to that effect, showing nonliability to tax. The certificate of

nonliability has the same force and effect as a receipt showing payment. The certificate of nonliability shall be in a form recordable with the register of deeds and admissible in evidence in the same manner as receipts showing payment of taxes.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

#### **205.251 Discharge of liability.**

Sec. 51. If a receipt for the payment of taxes or a certificate of nonliability for taxes has not been issued or recorded as provided for in this act, the property constituting the estate of the decedent in this state is considered discharged of all liability for taxes under this act 20 years from the date of the decedent's death.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Compiler's note:** Former MCL 205.251, deriving from Act 298 of 1909 which pertained to collection of inheritance taxes, was repealed by Act 256 of 1964, Eff. Aug. 28, 1964.

**Popular name:** Inheritance Tax

#### **205.252 Disposition of taxes and fees.**

Sec. 52. All taxes and fees levied and collected under this act shall be paid into the state treasury to the credit of the general fund.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.253 Tax on personal property.**

Sec. 53. A tax shall not be imposed in respect of personal property, except tangible personal property having an actual situs in this state, if 1 of the following applies:

(a) The transferor at the time of the transfer was a resident of a state or territory of the United States, or of any foreign country, that at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents of this state, except tangible personal property having an actual situs in that state or territory or foreign country.

(b) If the laws of the state, territory, or country of residence of the transferor at the time of the transfer contained a reciprocal exemption provision under which nonresidents were exempted from transfer taxes or death taxes of every character in respect of personal property, except tangible personal property having an actual situs in that state, territory, or country, provided the state, territory, or country of residence of the nonresidents allowed a similar exemption to residents of the state, territory, or country of residence of the transferor. For the purposes of this section, the District of Columbia and possessions of the United States are considered territories of the United States. As used in this section, "foreign country" and "country" mean both any foreign country and any political subdivision of that country, and either of them of which the transferor was domiciled at the time of his or her death. For the purposes of this section, "tangible personal property" is construed to exclude all property commonly classified as intangible personal property, such as deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, evidences of debt, and like incorporeal personal property.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.254 Administration of tax; rules; forms.**

Sec. 54. (1) The taxes imposed by this act shall be administered by the revenue division of the department of treasury pursuant to Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws. If there is a conflict between the provisions of this act and Act No. 122 of the Public Acts of 1941, the provisions of this act apply.

(2) The department may promulgate rules under this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, necessary for the administration and enforcement of this act.

(3) The department may prescribe and make available forms considered necessary under this act.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.255 Application of rules of interpretation and construction; "value or gross value of property" explained.**

Sec. 55. (1) If not otherwise provided for in this act, the rules of interpretation and construction applicable

to the internal revenue code shall apply to and be followed in the interpretation of this act.

(2) The value or gross value of property under this act shall be the value of that property as finally determined for federal transfer tax purposes. That value is conclusive and is not subject to challenge in this state.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.256 Additional definitions.**

Sec. 56. As used in this act:

(a) "Decedent" means a deceased person and includes, but is not limited to, a testator, grantor, bargainor, vendor, donor, or person who dies intestate.

(b) "Department" means the bureau of revenue of the department of treasury.

(c) "Federal generation-skipping transfer tax" means the tax imposed by chapter 13 of subtitle B of the internal revenue code.

(d) "Federal return" means any United States transfer tax return including federal estate tax returns and generation-skipping tax returns unless the context indicates a similar Michigan tax return.

(e) "Generation-skipping transfer" means every transfer subject to the federal generation-skipping transfer tax in which the original transferor is a resident of this state at the date of the transfer by the original transferor or the property transferred is real or personal property situated in this state.

(f) "Gross estate" means the gross estate determined under the internal revenue code.

(g) "Internal revenue code" means the United States internal revenue code of 1986, in effect on January 1, 1998 or, at the option of the personal representative, in effect on the date of the decedent's death.

(h) "Intangible personal property" means incorporeal personal property including, but not limited to, deposits in banks, negotiable instruments, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, evidences of debt, and choses in action generally.

(i) "Nonresident" means an individual who is not a resident.

(j) "Original transferor" means any grantor, donor, trustor, testator, or person who by grant, gift, trust, will, or otherwise, makes a transfer of real or personal property that results in a federal generation-skipping transfer tax.

(k) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, company, estate, or any other group or combination acting as a unit. Person does not include public corporations.

(l) "Personal representative" means the personal representative appointed by the probate court, including an independent personal representative, or, if a personal representative is not acting, then any person who is in the actual or constructive possession of any property included in the gross estate of the decedent or any other person who is required to file a return or pay the taxes due under any provision of this act. A safe and collateral deposit company, trust company, corporation, bank, or other institution is not the personal representative of property held in a safe deposit box or of money or property on deposit if the indicated ownership or registered title denotes ownership by right of survivorship. A safe and collateral deposit company, trust company, corporation, bank, or other institution is the personal representative of property that it is holding if it is a court-appointed personal representative, including an independent personal representative, or, if a personal representative is not acting, if it is holding property in a fiduciary capacity as a trustee or successor trustee.

(m) "Resident" means that term as defined in section 18 of the income tax act of 1967, 1967 PA 281, MCL 206.18. However, nothing in this act diminishes the settling of domiciles of decedents under 1956 PA 173, MCL 205.601 to 205.607.

(n) "Tangible personal property" means corporeal personal property.

(o) "Transfer" means the passing of property or any interest in property, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment.

(p) "Transfer tax" includes an estate, generation-skipping, inheritance, legacy, or succession tax for residents and nonresidents, including aliens.

(q) "United States" when used in a geographical sense includes only the 50 states and the District of Columbia.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1994, Act 372, Imd. Eff. Dec. 27, 1994;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax