WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1939

ENROLLED
Committee Sub. for
HOUSE BILL No. 272
(Originating in the Committee on
Taxation and Finance)
(By Mr. ____________________________)

PASSED
March 10, 1939

In Effect ____________________________ Passage
AN ACT to amend article eleven, chapter eleven of the code of
West Virginia, one thousand nine hundred thirty-one, as
amended, by amending and reenacting section one and by
adding a new section, designated as section fourteen-b to said
article eleven, relating to inheritance and transfer taxes.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eleven of the code of West Virginia,
one thousand nine hundred thirty-one, as amended, be amended by
amending and reenacting section one and by adding a new section,
designated as section fourteen-b, all to read as follows:

Article 11. Inheritance and Transfer Taxes.

Section 1. When Imposed. A tax, payable into the treas-
ury of the State, shall be imposed upon the transfer, in trust,
or otherwise, of any property, or interest therein, real, personal, or mixed, if such transfer be; (a) By will or by laws of this state regulating descent and distribution from any person who is a resident of the State at the time of his death and who shall die seized or possessed of property; (b) By will or by laws regulating descent and distribution of property within the State, or within its taxing jurisdiction, and the decedent was a nonresident of the State at the time of his death; (c) By a resident, or by a nonresident owning taxable property within the state or within its jurisdiction, by deed, grant, 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, or where any change in the use or enjoyment of property included in such transfer, or the income thereof, may occur in the lifetime of the grantor, vendor, or donor, by reason of any power reserved to, or conferred upon, the grantor, vendor, or donor, either solely or in conjunction with any person, or persons, to alter, or to amend, or to revoke any transfer, or any portion thereof, as to the portion remaining at the time of death of the grantor, vendor, or donor, thus
subject to alteration, amendment or revocation. If any one
of the transfers mentioned in this subdivision is made for
valuable consideration, the portion of the transfer for which
the grantor, or vendor receives equivalent monetary value
is not taxable, but the remaining portion thereof is taxable.

Every transfer by deed, grant, sale or gift, made within
three years prior to the death of the grantor, vendor, or
donor, without adequate valuable consideration, shall be con-
strued to have been made in contemplation of death within
the meaning of this subdivision; (d) By any person who
shall transfer any property which he owns, or shall cause any
property to which he is absolutely entitled to be transferred
to or vested in himself and any other person jointly, with
the right of survivorship, in whole or in part, in such other
person, a transfer shall be deemed to occur and to be taxable
under the provisions of this article upon the vesting of such
title in the survivor: Provided, however, This subsection shall
not apply to bank accounts payable to the class designated in
section two-a in a total amount of twenty-five hundred dol-
ars or less; (e) To any person deriving an estate in property,
coupled with a power of appointment, in which event such
estate shall be taxed as other limited estates; and whenever
any person shall exercise a power of appointment derived
from any disposition of property made, which appointment
when made shall be deemed a transfer taxable under the
provisions of this article, in the same manner as though the
property to which such appointment relates belonged abso-
lutely to the donee of such power and had been bequeathed
or devised by such donee by will; and whenever any person
possessing such a power of appointment so derived shall omit
or fail to exercise the same within the time provided therefor,
in whole or in part, a transfer taxable under the provisions of
this article shall be deemed to take place to the extent of such
omission or failure, in the same manner as though the person
thereby becoming entitled to the possession or enjoyment of
the property to which such power related had succeeded
thereo by a will of the donee of the power failing to exercise
such power, and shall take effect at the time of such omission
or failure. Provided, however, That in either of which events
the tax commissioner, on the application of any person in
interest or upon his own motion, may, after due notice to the
known persons interested, apportion such taxes, first, as to the
interest of the donee of the power of appointment, and second,
to the remainder or reversionary interests of others at the
highest probable rate applicable thereto, and shall make his
certificate accordingly, which shall be forwarded and disposed
of in the same manner as other certificates herein provided for.
The portion of any such taxes apportioned as to the remainder
or reversionary interest shall be paid out of the corpus of
the estate in like manner as other assessments as if such
interest had vested in possession; and, upon such assess-
ment and payment of tax the matter shall become a finality;
(f) By the terms of any annuity or investment contracts,
or similar type or form of contract or policy, and shall be
on the amount payable under any such contract or policy,
on account of a death, to named beneficiaries, to his estate
or in trust for the benefit of any individual or individuals,
including (1) all such policies or contracts hereafter issued,
and (2) all such policies or contracts now in force: Pro-
vided, however, That there shall be exempt from the pro-
visions of this subsection the proceeds of such contracts or
policies: (a) When the premiums on such policies or con-
tracts were paid by the beneficiary named in such policy
or contract, to the extent only of the ratio of premiums paid by the beneficiary bear to the total premiums paid;
(b) when the proceeds of such policies or contracts have been assigned by the decedent for a valuable consideration either in form absolute or as collateral security for the payment of a bona fide indebtedness of the decedent, to the extent that the proceeds thereof shall be necessary to pay and satisfy such indebtedness. It is provided, however, that no annuity settlement or arrangement accepted in lieu of cash settlement of a life insurance policy, whereby the proceeds of such policy are payable in instalments, shall be subject to taxation under the provisions of this article, nor shall the provisions of this article apply to the proceeds of any policy of life or accident insurance payable to a named beneficiary or beneficiaries whether directly or in trust or otherwise.

Where annuity or investment contracts or policies are left by a decedent in such manner that the proceeds thereof cannot be subjected to the payment of his debts, and where the proceeds of such annuity or investment contracts are received by beneficiaries thereof, the fact that the decedent may have
been insolvent and that a portion of his debts may remain unpaid shall not affect the liability for inheritance tax on such proceeds.

Sec. 14-b. Payments to Beneficiaries; Notice to Tax Commissioner; Penalties. Every corporation, partnership, association, individual, order or society authorized to transact annuity contracts, investment contracts, or similar types or forms of policy or contract business within this state which shall pay to any named beneficiary, estate or trustee upon the death of a resident of this state, the proceeds of any such contract or policy shall, on the date of such payment, give notice thereof, in writing, to the tax commissioner of West Virginia, stating (a) the amount of such payment, (b) the name and address of each beneficiary, and (c) the time and manner of payment; provided, however, such notice shall not be required (1) when the policy or contract involved or the payment to be made is fifteen hundred dollars or less and is payable to the class designated in section two-a of this article, and (2) when the amount of the policy or payment to be made is one thousand dollars or less.

Any such company so authorized to do business in this state, failing or refusing to comply with the provisions of this section, shall thereby become liable to the state for any amount of tax which may be due on the amount of payment concerning which such company failed or refused to file the notice prescribed by this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the

Takes effect

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within this the day of __________, 1939.

Governor.

Filed in the office of the Secretary of State of West Virginia on MAR 17, 1939.

Wm. S. O'Brien,
Secretary of State