

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1957



ENROLLED

HOUSE BILL No. 287

(By Mr. Whaley)



PASSED March 5, 1957

In Effect 90 days from Passage



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House Bill No. 287

(By MR. WHALEY)

[Passed March 5, 1957; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to inheritance and transfer taxes.

Be it enacted by the Legislature of West Virginia:

That section one, article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

Section 1. *When Imposed.*---A tax, payable into the
2 treasury of the state, shall be imposed upon the transfer,
3 in trust, or otherwise, of any property, or interest therein,
4 real, personal, or mixed, if such transfer be: (a) By will
5 or by laws of this state regulating descent and distribu-
6 tion from any person who is a resident of the state at
7 the time of his death and who shall die seized or possessed

8 of property; (b) By will or by laws regulating descent and
9 distribution of property within the state, or within its
10 taxing jurisdiction, and the decedent was a nonresident
11 of the state at the time of his death; (c) By a resident,
12 or by a nonresident owning taxable property within the
13 state or within its jurisdiction, by deed, grant, sale or
14 gifts, made in contemplation of the death of the grantor,
15 vendor, or donor, or intended to take effect in possession
16 or enjoyment at or after such death, or where any change
17 in the use or enjoyment of property included in such
18 transfer, or the income thereof, may occur in the life-
19 time of the grantor, vendor, or donor, by reason of any
20 power reserved to, or conferred upon, the grantor, vendor,
21 or donor, either solely or in conjunction with any person,
22 or persons, to alter, or to amend, or to revoke any transfer,
23 or any portion thereof, as to the portion remaining at the
24 time of death of the grantor, vendor, or donor, thus sub-
25 ject to alteration, amendment or revocation. If any one
26 of the transfers mentioned in this subdivision is made for
27 valuable consideration, the portion of the transfer for
28 which the grantor, or vendor receives equivalent mone-

29 tary value is not taxable, but the remaining portion there-
30 of is taxable. Every transfer by deed, grant, sale or gift,
31 made within three years prior to the death of the grantor,
32 vendor, or donor, without adequate valuable considera-
33 tion, shall be presumed to have been made in contempla-
34 tion of death within the meaning of this subdivision;

35 (d) By any person who shall transfer any property which
36 he owns, or shall cause any property to which he is ab-
37 solutely entitled to be transferred to or vested in himself
38 and any other person jointly, with the right of survivor-
39 ship, in whole or in part, in such other person, a transfer
40 shall be deemed to occur and to be taxable under the
41 provisions of this article upon the vesting of such title
42 in the survivor: *Provided, however,* That this subsection
43 shall not apply to bank accounts payable to the class
44 designated in section two-a in a total amount of twenty-
45 five hundred dollars or less: *And provided further,* That,
46 in the case of a surviving spouse, not more than fifty per
47 centum of the value of any transfer mentioned in this
48 subsection (d) shall be included and taxed in any such
49 decedent's estate; (e) To any person deriving an estate

50 in property, coupled with a power of appointment, in
51 which event such estate shall be taxed as other limited
52 estates; and whenever any person shall exercise a power
53 of appointment derived from any disposition of property
54 made, which appointment when made shall be deemed
55 a transfer taxable under the provisions of this article,
56 in the same manner as though the property to which
57 such appointment relates belonged absolutely to the
58 donee of such power and had been bequeathed or de-
59 vised by such donee by will; and whenever any person
60 possessing such a power of appointment so derived shall
61 omit or fail to exercise the same within the time pro-
62 vided therefor in whole or in part, a transfer taxable
63 under the provisions of this article shall be deemed to
64 take place to the extent of such omission or failure, in
65 the same manner as though the person thereby becoming
66 entitled to the possession or enjoyment of the property
67 to which such power related had succeeded thereto by
68 a will of the donee of the power failing to exercise such
69 power, and shall take effect at the time of such omission
70 or failure: *Provided, however,* That in either of which

71 events the tax commissioner, on the application of any
72 person in interest or upon his own motion, may, after due
73 notice to the known persons interested, apportion such
74 taxes, first, as to the interest of the donee of the power
75 of appointment, and second, to the remainder or rever-
76 sionary interests of others at the highest probable rate
77 applicable thereto, and shall make his certificate accord-
78 ingly, which shall be forwarded and disposed of in the
79 same manner as other certificates herein provided for.
80 The portion of any such taxes apportioned as to the re-
81 mainder or reversionary interest shall be paid out of the
82 corpus of the estate in like manner as other assessments
83 as if such interest had vested in possession; and, upon
84 such assessment and payment of the tax the matter shall
85 become a finality; (f) By the terms of any annuity or
86 investment contracts, or similar type or form of contract
87 or policy, and shall be on the amount payable under any
88 such contract or policy, on account of a death, to named
89 beneficiaries, to his estate or in trust for the benefit of
90 any individual or individuals, including (1) all such poli-
91 cies or contracts hereafter issued, and (2) all such policies

92 or contracts now in force: *Provided, however,* That there
93 shall be exempt from the provisions of this subsection the
94 proceeds of such contracts or policies: (a) When the
95 premiums on such policies or contracts were paid by the
96 beneficiary named in such policy or contract, to the extent
97 only of the ratio of premiums paid by the beneficiary
98 bear to the total premiums paid; (b) When the proceeds
99 of such policies or contracts have been assigned by the
100 decedent for a valuable consideration either in form abso-
101 lute or as collateral security for the payment of a bona
102 fide indebtedness of the decedent, to the extent that the
103 proceeds thereof shall be necessary to pay and satisfy such
104 indebtedness. It is provided, however, that no annuity
105 settlement or arrangement accepted in lieu of cash settle-
106 ment of a life insurance policy, whereby the proceeds of
107 such policy are payable in instalments, shall be subject
108 to taxation under the provisions of this article, nor shall
109 the provisions of this article apply to the proceeds of any
110 policy of life or accident insurance payable to a named
111 beneficiary or beneficiaries whether directly or in trust
112 or otherwise.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

E. B. Brent
Chairman Senate Committee

L. F. Deem
Chairman House Committee

Originated in the House of Delegates

Takes effect *90 days from* passage.

J. S. Mantey
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Reynolds J. Bean
President of the Senate

W. B. Lawrence
Speaker, House of Delegates

The within *approved* this the *14th* day of *March*, 1957.

Leif W. Underwood
Governor



Filed in the Office of the Secretary of State
of West Virginia **MAR 14 1957**
D. PITT O'BRIEN
SECRETARY OF STATE