WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1965

ENROLLED

SENATE BILL NO. 78

(By Mr. Davis)

PASSED February 17, 1965

In Effect Passage

FILED IN THE OFFICE OF
JOE F. BURDETT
SECRETARY OF STATE
THIS DATE 2-24-65
ENROLLED
Senate Bill No. 78
(By MR. DAvis)

[Passed February 17, 1965; in effect 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 the imposition of 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 treasury 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 gifts, 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 revoca-
tion. If any one of the transfers mentioned in this sub-
division 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 remain-
ing 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 presumed 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, how-
ever, That this subsection shall not apply to bank ac-
counts and to shares or savings accounts in federal sav-
ings and loan associations organized under the federal
home owners’ loan act of one thousand nine hundred
thirty-three, as amended, or in building and loan associations organized under article six, chapter thirty-one of this code, payable to the class designated in section two (a) in a total amount of twenty-five hundred dollars or less: Provided further, That in the case of a surviving spouse, not more than fifty per centum of the value of any transfer mentioned in this subsection (d) shall be included and taxed in any such decedent's estate; (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 absolutely 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 thereto 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 further, 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 assessment and pay-
ment of the 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: Provided, however, That there shall be exempt from the provisions of this subsection the proceeds of such contracts or policies: (a) When the premiums on such policies or contracts 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 settle-
ment or arrangement accepted in lieu of cash settlement
of a life insurance policy, whereby the proceeds of such
policy are payable in installments, 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.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

Takes effect

Passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 27th day of February, 1965.

Governor
Presented to Geri. Klein
Feb. 19, 1965
11:05 am